undertaking obligations that could exceed the amount of its bond.

Having decided not to take over the contractor's operations, it will have to make another decision of equal importance and we shall now move to a discussion of the problems which will influence the next decision. Assume the contractor is adjudicated bankrupt and has either abandoned the work, or has been declared in default, and the surety is called upon by the owner (by "owner" here and hereinafter used, we mean the United States Government, or the state, county or public authority awarding the contract and which is named the obligee in the performande bond) to take over and complete. It has two alternatives: to wit, (1) will it, *as surety,* undertake to complete, or (2) will it waive its right to complete.

There are many things that will influence this decision, some will support one view and some the other. Still having in mind our hypothetical case, let us review some of the problems the surety will have if it undertakes to complete. Bear in mind we are not now talking of the surety financing completion by the contractor, we are discussing the situation in which it, *as surety,* takes over completion after the contractor's default.

a—A surety company is not a contractor—it will either have to use the insolvent contractor's organization, or will have to contract with another contractor to do the work.

b—It will have the immediate problem of negotiating with the bank that is currently receiving estimates under contractor's assignment. Obviously it would be costly for the surety to complete while the bank is collecting estimates to reduce the insolvent contractor's indebtedness to it.

c—It will have to arrange to keep subcontractors on the job—probably requiring prompt payment of balances due subs as well as material furnishers.

d—It will have to make prompt payments to the person or firm with whom it contracts or which it employs to complete, and this must be done whether or not it collects estimates from the owner.

e—There is the risk of a loss exceeding the amount of the performance bond.

f—One of the most important problems is collection of the retained percentage, not only that part which accrued prior to the default, but that which accumulates after the time the surety undertakes to complete. Ordinarily there is no difficulty about a completing surety collecting progress payments, but it may be faced with adverse claimants to the retained percentage, such as—(1) the trustee in bankruptcy, (2) the assignee bank, (3) the Collector of Internal Revenue, and (4) the owner who may claim an offset on account of other indebtedness of the insolvent contractor.

Now look at the situation of the surety which waives its rights to complete:

a—Following notification by the surety that it elects to waive completion, the normal procedure is for the owner to advertise for bids, then contract with the low bidder to take over completion of the work.

b—The amount by which the bid of the new contractor exceeds the unpaid balance of the contract price still in the hands of the owner will fix the amount of the surety's liability under its performance bond, but the surety will not, under these circumstances, be involved in controversy or litigation over the retained percentage. Upon the default of the contractor, all the unpaid balance of the contract fund, including accrued retained percentage, constitutes a fund that is available to the owner to apply to completion.

It is not always easy to decide what to do. Should the surety waive its right to complete or should it undertake, as surety, to complete the job. Conceivably opportunity for the surety to negotiate with another contractor for completion, rather than risk additional loss if the owner advertises for new bids, will justify the risk of ultimately losing out on retained percentage, but, generally speaking, the surety's legal right to have the benefit of all retainage is sound where it doesn't undertake completion. It is a matter of getting all the facts and exercising judgment. In some cases the extent to which the work has been completed at the time of default will influence the decision. Knowledge of what it will be up against, will help the surety to decide what it should do.

If the surety is concerned with a contractor that has defaulted under a con-

tract with the United States Government, as distinguished from a contract with a state, county, or local authority, its decision will be influenced by different factors. This is because ultimate capture of retained percentages is of importance to a surety which contemplates completion. If the surety waives completion the government will advertise for new bids. As we pointed out, this assures application by the government of all contract balances, even including retained percentages which accrued prior to the default of the contractor, to the cost of completion. On the other hand, if the surety undertakes to complete the work, it runs the risk of set off by the government of retained percentages against any indebtedness of the contractor to United States. The origin of this set off theory and the various stages of its development, to the detriment of the surety, has been thoroughly discussed in many articles. We refer you to an article I prepared in 1943—"Surety's Rights as Affected by Claim of United States for Contractor's Unpaid Taxes"—published in the proceedings for the Insurance Section of the American Bar Association 1943; a paper prepared by Mr. J. Harry Cross, entitled, "The Priortity of the United States in Relation to the Contractor's Sureties Under the Miller Act," in the July 1947 issue of the Insurance Counsel Journal; Mr. Braxton Dew's comments upon the fatal decision, *United States v Munsey Trust Company* 322 U.S. 234, decided by the United States Supreme Court June 25, 1947; the most interesting and informative comments of the Hon. Edwin L. Fisher, General Counsel for the General Accounting Office on "The Government Point of View" and the response thereto by George C. Bunge on "The Surety Point of View", both of which are in the July 1951 issue of the Journal beginning at page 297. Following these articles, see paper of Arthur Park on "Federal Tax Claims or Liens as they Affect a Contractor Surety," which is published in the proceedings for the Insurance Section of the American Bar Association, 1952. In 1938 John A. Luhn submitted a paper—"Federal Courts Clarify Rights of Sureties on Bonds of Government Contractors and Establish Procedure for Enforcement;" and Thomas F. Mount discussed "The Ability of Sureties to Control Payments Due Under Government Contracts." Both these articles will be of interest but, like my 1943 effort and other papers prepared before the decisions of the United States Supreme Court in *Munsey Trust Company* case, supra, and United States Court of Claims in *Standard Accident Insurance Company v United States* 97 Fed Supp 829, decided June 5, 1951, will be somewhat out of date but nevertheless helpful as they set forth fully the background of the controversy between the United States and the sureties and the theories relied upon by the sureties, which culminated in the decisions that now make it more difficult (practically impossible in some cases) for a surety to undertake completion of a government contract following the default of the contractor. Don't overlook this right of the United States to withhold retained precentages to the detriment of the surety before agreeing to undertake completion of a government contract. Fortunately this possibility does not, at least at this time, operate to the surety's disadvantage if it elects to complete work under contracts with states, cities or other public authorities.

One thing of utmost importance should be kept constantly in mind: to wit, the necessity for the surety to immediately place the owner on notice of its legal rights with respect to the entire balance of the contract funds, including retained percentages which accrued prior to default. This is advisable whether the surety elects to complete following contractor's default, or waives completion. Whether or not it is a government contract such notice is necessary, although the approach and the form of the notice may be different; it will have to vary according to the circumstances. The surety must anticipate other creditors of the contractor will be reaching for anything in sight and in any event will contest the surety's claim to retained percentages which accrued prior to default. The surety has legal rights, possibly arising from the assignment usually contained in the application for the bond; it has equitable rights arising out of subrogation through the owner or through material furnishers. In some jurisdictions it will have what is described as an equitable lien on all unpaid contract balances in the hands of the owner, which arose at the time of the giving of the bond. Obviously we cannot discuss here the theories and many decisions, for and against the surety's claims to contract balances, nor is it necessary. The many articles we have mentioned discuss these theories and appli-

cable authorities, beginning with the famous and often cited decisions of the United States Supreme Court—*Prairie State Bank v United States,* 164 U.S. 227 and *Henningsen v United States,* 208 U.S. 404. Our only purpose is to alert the surety to the absolute necessity of giving prompt notice to the owner of whatever rights it claims to the unpaid balance of the contract funds, and to urge that full advantage be taken of the time and efforts of the surety lawyers who have studied these problems and so ably discussed the theories and decisions in the available.

Even though we have tried to avoid direct reference to the many decisions we shall mention one recent case; first, because we do not find it cited in any of these articles; second, because it not only reviews other important decisions but, although it involves controversy between a surety and a bank claiming under the assignment of claims act, it so clearly outlines the surety's rights growing out of its equitable lien. See *Royal Indemnity Co. v The United States,* United States Court of Claims, decided November 7, 1950, and reported 93 Fed Supp. 891, wherein the court said, "* * * the equity of the surety arose at the time of the giving of the bond * * * the rights of the surety to assert its equity became available when it was forced to pay under its bond * * * the surety's equity should be satisfied before payment * * * is made to the bank under the assignment."

We are pointing out here only the things which affect the surety's legal rights; that is, what has to be considered to enable a surety to judge the possibility of minimizing its loss in a specific case. The hypothetical case we have outlined does not contemplate a surety bond which expressly stipulates that in the event of default the surety will undertake to complete the job. Where the bond so provides, there is little to say, if the surety decides not to finance completion of the work by the contractor, except that if there is a default or abandonment of the work by the contractor, the surety should and will perform its obligation, regardless of the fact it may be convinced its interests will be best served by calling upon the owner to advertise for new bids and to make a contract directly with the low bidder for completion.

It will occur to some of you that to say it may be profitable for a surety to waive completion and let the owner struggle with a defaulted contract isn't exactly within the spirit of suretyship. If so, bear in mind we are limiting this effort to a discussion of what affects the legal rights of the surety. It is appropriate to add here that even where a surety has decided it will not undertake to complete, there are many things it can and should do for its own ultimate benefit as well as to help the owner. It doesn't sit back and say, "I will not complete your work—you go ahead, Mr. Owner, advertise or find someone to complete your contract and I will pay the excess cost of completion." For instance, a surety, with its contacts, can be of immeasurable value by conferring with other contractors; arranging to keep subcontractors interested and on the job; facilitating the payment of unpaid sums due subcontractors, as well as bills for labor and material; preparing new contract documents—in fact, practically everything it would have done had it agreed to complete except to actually enter into a contract with a new contractor. It can arrange for immediate payment to the owner of the difference between the new contractor's price to complete and the unpaid balance of the original contract funds.

We are aware, of course, that aside from the legal considerations that influence a decision, there is always present the problem of public relations. It is not our intention, however, to undertake to discuss the extent to which a surety should be influenced thereby. There could be many reasons why considerations of public policy will, in a particular case, be more persuasive than legal considerations, but surety companies and surety lawyers need no comments or help from us on this phase.

I have tried to limit my observations to what a surety has to consider before a decision involving its performance bond liability. Questions involving its payment bond obligations to subcontractors, laborers and material furnishers are many and varied. Mr. Mansfield will have some comments on this phase of the surety's contract bond problems. (Applause)

WALTER A. MANSFIELD THEN CONTINUES

After listening to Mr. McCahan's remarks, I am certain that you ladies and gentlemen will agree with me when I say that the attorney in the field, having merely the burden of investigating and developing the facts, has an easier task

than does the Home Office counsel. Also, as you will have observed, the Home Office counsel's responsibility is essentially the greater because in deciding whether to finance the contract through to completion, by the making of a loan, or stepping in and taking over the contractor's operations, or in simply waiting for a default, the responsibility is there and the responsibility is substantial. And as Mr. McCahan has pointed out you cannot start on one course of action and then second-guess. When the die is cast, then the results either come out as well as you hoped, or reasonably as well as you might have hoped for, and sometimes a great deal worse.

But we have pointed out to you the factual circumstances to develop by investigation, and we have let you see now Home Office thinking and Home Office reasoning, the facts having been developed. Now we might take a little time in pointing out to you certain of the legal complications, and possibly we may be of some assistance to you there.

Much has heretofore been written on legal questions or claim situations presented by the Miller Act. Particularly on questions as to persons entitled to protection for furnishing of labor or material in the prosecution of the work provided for in such contract. Also, as to the conditions precedent to a right of recovery. That is, notice to be given under Section 270b by a person having direct contractual relationship with a subcontractor, but no contractual relationship, express or implied, with the contractor. The further condition precedent, the year period within which suit must be filed after the date of final settlement of such contract.

We do not propose to repeat the articles, before written. On these questions before mentioned, some 19 years ago, George E. Beechwood of Philadelphia read an able paper upon—"THE RECENT MILLER ACT".[1] That paper was ably commented upon by Edward H. Cushman, also of Philadelphia, that same year.[2] Some 7 years later your speaker endeavored to bring those papers up-to-date by a further article entitled—"THE MILLER ACT AND RELATED LEGISLATION"[3] at the 1942 Convention of the American Bar Association in Detroit.

Still another authoritative and excellent article is the Credit Manual of the Commercial Laws published by the National Association of Credit Men.

But a general statement upon the various propositions is in order, and to the extent that decisions supplemental to the papers are referred to, a statement of such authorities is in order. To the end that the mentioned papers may be brought up right to date.

WHAT CONSTITUTES LABOR OR MATERIAL FURNISHED IN THE PROSECUTION OF THE WORK PROVIDED FOR IN THE CONTRACT? Obviously, brick, cement, steel, lumber, plaster, nails, electricity, heating and plumbing supplies, along with the labor incidental to the installation thereof are labor or material furnished in the prosecution of the work provided for in such contract. In addition, and likewise so considered, are items of equipment rental, such as trucks, derricks, or even horses or mules; as well as claims of equipment suppliers, whose materials are likely to be consumed during the progress of the project, such as form lumber, or scaffolding, tires and tubes for trucks, repair parts for trucks worn out on a project; also claims for coal, gasoline, oils and electricity. For that matter, even claims for groceries or room and board are included, if the contract performance is remote from civilization, and it is essential to the prosecution of the work that such facilities be provided for employees. Trucking charges, freight charges of common carriers, all of these items, and more, in addition to the obvious, are a labor or material furnished in the prosecution of the work, and protected by the payment bond.

The words "FURNISHING" and "IN THE PROSECUTION OF THE WORK" do not of necessity mean that the particular item or items must be wholly consumed, or that there must be proof thereof. For example, in a recent decision, *Taylor Company et al vs Magnolia Petroleum Company*,[5] a materialman supplied a subcontractor with gas, deisel oil and lubricating oils. These deliveries were made at the request of the subcontractor at various designated points. More conveniently for the strategic use by particular equipment, rather than to one designated point. The

[1,2] 1935-1936 Proceedings of the Section of Insurance Law American Bar Association.

[3] 1942-1943 Proceedings of the Section of Insurance Law American Bar Association.

[5] 153 Fed 2d 527

court said these deliveries were so made as in fact to have been delivered under circumstances which fully justified the use plaintiff in believing that they would be and in fact were used by the subcontractor in fulfillment of his contractual obligation. The court said this was all the proof necessary that they were supplied in the prosecution of the work. It was stated as unimportant whether or not there was evidence that such gasoline and oils were wholly consumed by this contractual obligation.

In addition to the aforementioned, there are authorities upon the proposition of whether or not the surety is liable for interest, and when interest starts to run. They are referred to in the prior articles. Likewise, a claim for compensation and liability insurance premiums have been held to be a labor and material charge, but this was in a particular case where a surety on a performance bond had taken over control of the contractor in such manner as to strip the corporation of assets, and the surety undertook the performance of the contract, incidentally losing money thereby. The recovery was allowed on theory of a quasi contract, such surety having to pay the compensation and liability insurance carrier the premium charges incurred.[1]

The act continues to be liberally construed by the courts to the end that the material and labor supplier will be provided the maximum protection that may be read into the act.[2]

It is also of interest to note that there are authorities upon the proposition of application of payments.[3] In particular cases where the payments have come from the contract balances, to the knowledge of the creditor, or conversely, or application not having been directed by the debtor, or conversely, the authorities generally, or at least the majority rule is to require the payments to be applied for the protection of the surety.

Of course, all items are not recoverable, and in the articles that I have referred to there are many such instances referred to. For example, a payment bond is not obligated on failure of the contractor to pay the purchase price of equipment. Or, materials purchased, but not consumed in the project, but in fact surviving such contract and having sufficient value that they may be used on other projects, recovery has been denied.[4]

As has been before stated, the test would appear to be, that if the materials or appliances are not appreciably exhausted, and may be or are used on other projects, or if repairs are not rendered necessary by ordinary wear on that project, they would not be "Labor or material" furnished under the Miller Act. There may be presented a question of fact for a jury to decide, although generally the issue is one of law.

The Miller Act has certain CONDITIONS PRECEDENT to a right of recovery. These conditions precedent to a right of recovery are the requirements as to NOTICE, and the *filing of suit within 1 year after the date of final settlement of the contract.* Of these two requirements let us first consider the provisions pertaining to notice. Of course, no notice is required of any person having an express or implied contractual relationship with the contractor furnishing the payment bond. But, if the person has direct contractual relationship with the subcontractor, but no contractual relationship express or implied with the contractor furnishing such payment bond, he

> "Shall have a right of action upon said payment bond upon giving written notice to said contractor within 90 days from the date on which said person did, or performed the last of the labor, or furnished or supplied the last of the material, for which such claim is made, stating with substantial accuracy the amount claimed, and the name of the person to whom the material was furnished or supplied or for whom the labor was done or performed."

This Section further specifies the manner in which notice is to be given as follows:

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[1] *Royal Indemnity Co. vs Sol Lustbader Inc.,* 26 NY Supp 2d 328.

[2] *Fleisher Engineering & Const. Co. vs U S,* 311 U S 15; *Glassell Taylor Co. vs Magnolia Petroleum Co.,* 153 Fed. 2d 527; *United States vs. Harmon,* 192 Fed 2d 999

[3] *U S vs Amer. Bond. & Trust Co.* 89 Fed 2d 925; *Farnsworth & Co. vs Elec. Supply Co.,* 112 Fed 2d 150, rehearing denied 113 Fed 2d 111, certiorari denied 311 U S 700; *Delaware Dredge. Co. vs Tucker Stevedoring Co.,* 25 Fed 2d 44; *United States vs Beck,* 151 Fed 2d 964.

[4] *USF&G vs Bartlett,* 231 US 237; *Illinois Surety Co. vs. John Davis Co.,* 244 US 376; *U. S. vs. McKay,* 28 Fed 2d 777; *U S vs Hercules Co.,* 52 Fed 2d 454; *Massachusetts Bonding & Ins. Co., vs U S,* 88 Fed 2d 388.

"Such notice shall be served by mailing same by registered mail, postage prepaid, in an envelope addressed to the contractor, at any place he maintains an office, or conducts his business, or his residence, or in any manner in which the United States Marshal of the district in which the public improvement is situated is authorized by law to serve summons."

The decisions of the courts construing the requirement as to notice have been of interest. In United States for Use and Benefit of *John A. Denie's Sons Company vs Bass,*[1] it has been held that

"The statutory requirement of notice being unequivocal and without ambiguity is a jurisdictional prerequisite."

Which seemingly suggested to the surety profession that the required written notice had to be given by registered mail, or by service of process comparable with that required of the United States Marshal of the district and, of course, within the required 90 day period.

However, although the mentioned case seemingly so stated, and the statute seemingly so required, this did not seem to be the case, because in United States for Use and Benefit of *Hallenbeck vs Fleisher Engineering & Construction Company,*[2] the court had held that the sending of notice by registered mail was not mandatory, but that notice by ordinary mail, actually received, was sufficient, if sent within the 90 day period, since, under these circumstances,

"the mode of transmission becomes unimportant, and the provisions as to mode of delivery should be regarded as directory and not mandatory."

There being a conflict in these decisions, the Supreme Court of the United States granted certiorari. The interesting part of the Supreme Court decision in *Fleisher Engineering & Construction Company vs United States,*[3] is the fact that the Supreme Court recognized

"that the statute created a new right of action, and that compliance with the prescribed limitation (and since they are discussing notice they must mean prescribed limitation, i.e., notice) was essential to the assertion of the right conferred."

Which would seem to indicate that (a) the giving of notice, and (b) within the 90 day period, and (c) by registered mail, or by appropriate service of process, each of these requirements, in fact, would be a condition precedent, essentially to be complied with in order that the use plaintiff have the right of action.

Yet, the Supreme Court in affirming the second Circuit, found no conflict in the two decisions, and pointed out the difference in the legal effect of the separate provisions of the statute, which they involved, in the following langauge:

"In giving the statute a reasonable construction in order to effect its remedial purpose, we think that a distinction should be drawn between the provision explicitly stating the condition precedent to the right to sue, and the provision as to the manner of serving notice. The structure of the statute indicates the distinction. The proviso, which defines the condition precedent to suit, states that the materialman or laborer 'shall have a right of action upon the said payment bond upon giving written notice to said contractor' within ninety days from the date of final performance. The condition as thus expressed was fully met. Then the statute goes on to provide for the mode of service of the notice. 'Such notice shall be served by mailing the same by registered mail, postage prepaid, or 'in any manner' in which the United States Marshal is authorized by law to serve summons. We think that the purpose of this provision as to manner of service was to assure receipt of the notice, not to make the prescribed method mandatory so as to deny right of suit when the required written notice within the specified time had actually been given and received."

Now, of course, after the United States Supreme Court had so spoken, it would seem to be a logical conclusion that the giving of notice in writing stating with substantial accuracy the necessary facts within the 90 day period were in fact conditions precedent to the right to recover. Or, the alternate notice permitted by the Miller Act would, of course, be acceptable, that is, service in any manner in which the United States Marshal of the district

[1] 111 Fed 2d 965.
[2] 107 Fed 2d 925.
[3] 311 U. S. 15.

in which the public improvement is situated is authorized by law to serve summons.

But let us see just what the subsequent decisions have been. In a decision of the Eighth Circuit Court of Appeals, United States for use and benefit of *American Radiator & Standard Sanitary Corporation vs. Northwestern Engineering et al,*[1] the facts were that written notice had not been given either by registered mail, or by ordinary mail. The materialman, the use plaintiff, had furnished to the subcontractor, to whom the materials were being furnished, invoices. When the subcontractor received these invoices he in turn gave them to the general contractor. The general contractor in turn used these invoices in making requests for progressive estimates. That was the only suggestion of written notice presented by the testimony. However, the further question was raised whether or not, the general contractor could be held by the fact of the knowledge as presented by such invoices, to have waived the requirement of written notice. Also, there was a verbal denial of liability by the general contractor to the materialman, and the further question was presented whether or not such verbal denial constituted a wavier of necessity of written notice within the 90 day period of date of delivery of last of materials.

As to the argument of the invoices being sufficient written notice, the court said:

"Plaintiff argues that, if a written notice was necessary the invoices which it issued to the subcontractor as the materials were being furnished, and which the subcontractor appears in turn to have given the general contractor for use in arriving at the estimated payments which the government was to make during the progress of the work, should be regarded as a sufficient compliance with the statute. But the invoices were not presented to the contractor as the basis for a claim on the bond. They were furnished by the plaintiff to the subcontractor as an ordinary commercial incident. When they were turned over by the latter to the general contractor, they were intended merely to indicate the material that had been furnished. They did not purport to show what payments had been made to plaintiff, or what amount was owing from the subcontractor within ninety days after the last of the material had been supplied. They clearly did not constitute a written notice on the part of plaintiff to the general contractor, intended as the assertion of a claim upon the payment bond, and 'stating with substantial accuracy the amount claimed and the name of the party to whom the material was furnished.' They could accordingly not be treated as a substitute for the written notice of claim which the statute imposed as a condition precedent to any right of action upon the bond."

As to the argument on the waiver theory the court said:

"Since the statute gives a materialman or laborer no cause or right of action upon the bond until such a written notice has been furnished, it follows that the mere assertion of the contractor in this case that nothing was owing to the subcontractor, and that there was accordingly no liability to plaintiff, or any other declaration that might have been made, could not constitute an effectual waiver of the necessity for furnishing a written notice under the statute. Until the written notice was given, no liability could come into existence on the bond. * * * * * the plaintiff had no cause of action, and there was consequently nothing upon which the defendants' waiver, if any, could act; the defendants could waive a right of their own, but could not, contrary to the express terms of the statute, by waiver confer a right of action on the plaintiff * * * * *.' *Stitzer v. United States to Use of Vaughan,* 3 Cir. 182 F. 513, 517. 'In short, a requirement which is clearly made a condition precedent to the right to sue must be given effect * * * * *.' 311 U.S. at page 18, 61 S. Ct. at Page 83, 85 L. Ed. 12."

Also in 1942, a South Carolina District Court in the case of *United States (etc.) v. Fleisher Engineering & Construction Co., et al,*[1] pointed out that notice need not be given by registered mail, but that notice given by ordinary mail was sufficient if given within the 90 day period of time. The court pointed out that in the instant case no written notice was served

[1]122 Fed 2d 600.

[1]45 Fed Supp 781.

[2]87 Fed Supp 1.

within the 90 day period, and in effect approved of the order which granted motion for summary judgment and dismissal of the complaint.

In *United States v. Frazier Construction Co.*, a District Court decision, December 1949[9] the defendants filed a motion to dismiss alleging failure to state a claim upon which relief can be granted.

The plaintiff in opposition to the motion to dismiss contended (1) the use plaintiff was not required to give the 90 day notice referred to in the statute for the reason that a contractual relationship, either express or implied, existed between the plaintiff and the general contractor, (2) that defendants are precluded from setting up the lack of the 90 day notice because of waiver and estoppel, (3) the defendant contractor, having had actual notice, the statutory notice was unnecessary.

Replying to the last two contentions of the plaintiff, it was held that notice had to be given within the 90 day period, that is to say, written notice had to be given, and that was held mandatory, as a strict condition precedent to the existence of any right of action upon the payment bond.

As to the proposition of waiver the court said:

> "Until the written notice was given, no liability could come into existence on the bond. * * * * * The plaintiff had no cause of action, and there was consequently nothing upon which the defendant's waiver, if any, could act; the defendants could waive a right of their own, but could not contrary to the express terms of the statute, by waiver confer a right of action on the plaintiff."

Unless a written notice was given within the 90 day period of time, the mandatory requirement, as a condition precedent to liability, had not been complied with, and unless there had been a compliance with the mandatory requirement there could not be a waiver of the express requirement of the statute.

As to the first proposition, that a contractual relationship, either express or implied, existed between the plaintiff and the defendant construction company, the court concluded that the allegations of the complaint were sufficient to allege such contractual relationship, and if it actually existed, then no notice was necessary. The court said:

> "An implied contract has been defined as such as arises by legal inference and upon principles of reason and justice from certain facts, or where there is circumstantial evidence showing that the parties intended to make a contract." (Citing *McDonald v. Thompson*, 184 U.S. 71.)

The court continued and said:

> "It might be observed here that the existence of an implied contract under this statute is, in the opinion of the court, dependent upon facts from which an actual contract may be implied."

So that these mentioned cases subsequent to the United States Supreme Court expression have held firm to the proposition that the required notice must be given in writing, by ordinary mail, as a condition precedent to a right of recovery.

However, attention should be directed to an additional case, *Coffee, et al, v. United States*.[1] The issue involved was whether or not the notice had been given, the condition precedent complied with. The District Judge had found the facts to be that the materialman, who supplied the material to the subcontractor, and which items were unpaid, called on the general contractor. The general contractor was a copartnership. The materialman talked with one of the copartners and advised him of the balance owing. The materialman, according to the District Court opinion, actually handed over to the copartner the statement of account that had the detail broken down as to materials, dates and amounts, and they discussed it in full detail and length, and then the copartner returned the statement to the material man and suggested the materialman take up with the subcontractor.

The Circuit Court of Appeals on appeal said the above findings of fact were justified excepting that the record did not show the materialman surrendered physical possession of the statement of account, but that he held it in his hand, keeping it at all times. That the copartner merely stood by, looked at the statement, observed the contents as it was being completely discussed.

The Fifth Circuit Court of Appeals con-

[1]157 Fed 2d 968.

cluded that the writing having actually been prepared by the claimant containing the necessary information, and the writing having been exhibited to the contractor by the claimant, and the contractor having examined and discussed this writing, and might have taken it if he so desired, the Court said that was a written notice, sufficiently served, so as to allow the claimant the protection of the Miller Act.

So there you have a situation where the written notice was not only not sent by registered mail, but it was not even sent by regular mail, which shows a further tendency on the part of the Courts to permit a breakdown under the so-called liberal interpretation rule.

It is our feeling that this decision is to be criticized. The argument should be emphatically made that the requirement of notice by mail may not be read out of the Miller Act by Judicial Decision.

While not squarely in point upon the notice requirement we think certain cases should be called to your attention. Such as the case of *United States ex rel Hargis, v. Maryland Casualty Co.,* (Feb. 1946),[1] is an interesting case. The general contractor had, of course, provided the usual payment bond under the Miller Act in connection with construction of air field facilities in California. This general contractor had a subcontractor employed to do a certain portion of the work, and this subcontractor had obtained from the use plaintiff, Hargis, a tractor and equipment. An agreed statement of facts provided the rental value and also stated the balance owing to approximate $1,600.00.

The facts suggested that a written notice had been given, because there was quite an exchange of letters, telegrams and invoices, between the general contractor, the subcontractor and the use plaintiff, the equipment supplier. However, primarily the use plaintiff proceeded on the theory that the general contractor had a direct or implied obligation to pay, hence no notice as required by the Miller Act was necessary, and the court based its conclusion on a combination of all of these theories, coupled with the theory of third party beneficiaries, also the theory of estoppel, also the theory that the general contractor had such a complete knowledge of all elements of the claim as would have made a more formal notice an idle and useless act.

[1] 64 Fed Supp 522.

From a factual standpoint the contract between the general contractor and the subcontractor provided that the contractor should pay all accrued material, freight, equipment rental, payrolls, and etc., and deduct from the amount due the subcontractor, withholding only ten percent of the total contract price, which should not be due and payable until fifteen days after completion of the contract, and the acceptance of the contract by the owner.

The agreed statement of facts does not question the existence of the clause, and actually it states the contractor paid out directly for all the labor carried on by the subcontractor and all material furnished to the subcontractor, and actually also by telegrams, letters and invoices the general contractor had notice of this rental claim of the use plaintiff, and in effect the court questions why the general contractor having paid all other obligations did not pay this. The effect of the District Court decision is that there was a direct or implied contract, and no notice within the 90 day period of time was necessary upon the theories as aforementioned and set forth, the court also calling attention to the fact that under the laws of the state of California an agreement of the type under consideration is considered a contract made for the benefit of a third party and enforceable directly against him, although the third party beneficiary is not actually named or is only one of a class of persons mentioned.

As stated in *United States ex rel Hargis,* supra:

> "Much speculation has been indulged in by law writers and courts on the distinction between implied contracts in law and implied contracts in fact. Many have insisted that contracts implied in law are, in reality, constructive or quasi contracts. But all the authorities seem to agree that when the words 'implied contract' occur in a statute the reference is to an actual contract inferred from the circumstances, conduct, acts or relations of the parties, showing a tacit understanding."

As well as *Birmingham Slide Co. v. Perry,* a decision of the Fifth Circuit.[2] The materialman had given notice by mail to the owner of non-payment by subcontractor of material items furnished, and had sent copy of this letter to the general con-

[2] 115 Fed 2d 724.

tractor by ordinary mail, and that was held to be sufficient notice.

Upon the proposition of expenses or implied contractual relationship with the contractor we direct your attention to *United States for Use of Foley v. U.S.F.& G.*[3] It appeared that there was litigation as between a subcontractor and a general contractor and their respective sureties. The subcontractor contending the contract to be completed and the claim to be unpaid and suing the general contractor and the latter's surety, and the general contractor to the contrary contending that the work had been uncompleted and that it, the general had to complete, and sued by counter claim the loss sustained, the counter claim being against the subcontractor and the surety of the subcontractor.

But the pertinent point is that there was a material supplier who intervened. Being a material supplier of the subcontractor and this materialman stated a cause of action against the subcontractor the general contractor and the surety on the bond of the general contractor.

Incidentally, and most important the general contractor had guaranteed the payment of the claim of the materialman.

Written notice was not given within the 90 day period, and the surety on the bond of the general contractor and the general denied any liability under the Miller Act. The District Court below sustained such contention, entering judgment against the subcontractor only, but on appeal the Circuit Court of Appeals concluded (2nd Circuit—August 1940) that no notice had to be given by any person having contractual relationship express or implied with the contractor, and said that the material supplier "had direct contractual relationship with the subcontractor, and it also had express contractual relationship with the contractor by reason of Fiumarra's guarantee of Foley's account. Not falling within the class defined by the provise, we think the Warren Corporation is covered by the first sentence of Section 270b, and had the right to sue upon the Miller Act bond without giving the notice required of materialmen who have no contractual relationship with the general contractor. Such notice is evidently for the protection of the contractor. (Citing authority) It is not needed when the contractor has himself entered into agreement with the materialman of a subcontractor. *United States v. Otis & Williams Co.,* District Court Idaho, 30 Fed. Supp. 590. In ruling that notice was required to fix the rights of Warren Corporation under the Miller Act bond we think the District Judge was in error."

The second of the conditions precedent to liability is the requirement, also contained in the Miller Act, with reference to the suit against the payment bond; BUT NO SUCH SUIT SHALL BE COMMENCED AFTER THE EXPIRATION OF ONE YEAR FROM THE DATE OF FINAL SETTLEMENT OF SUCH CONTRACT.

The authorities are uniform in their decision that the suit must be filed against the payment bond within the required year period. The cases stress the fact that the time within which the suit must be brought operates as a limitation of the liability itself, and not of the remedy alone. It is a condition attached to the right to sue at all. Time has been made the essence of the right, and the right is lost if time is disregarded. The limitation and the remedy are created by the same statute and the limitation of the remedy is therefore to be treated as a limitation of right or, to state it in still a different fashion, under the language of the statute, the limitation of time specified therein constitutes a condition to the right to sue and does not merely constitute a defense in bar of the remedy.[1]

The only question that may be said to be presented of consequence, considering the limitation of one year within which suit must be filed is what is the date of final settlement from whence the year period starts to run?

This seems to be the administrative determination by the officer in charge of the execution of the work, that the work has been performed and it is his finally fixing of the amount due, the date thereof, that constitutes the date of final settlement. It is the date of the unconditional and final determination of the amount due. If the United States should contend any additional work to be required and hold back any amount, large or small, to secure full performance, then there has

[3]113 Fed. 2d 888.

[1]Harrisburg case, 119 U. S. 199; *Illinois Surety Co. vs U. S.* 240 U. S. 214; *Globe Ind. Co. vs U. S.,* 291 U. S. 476; *U. S. vs Arthur Storm Co.,* 101 Fed. 2d 524, Certiorari denied, 307 U. S. 630; *Farnsworth Elec. Co. vs Elec. Supply Co.,* 112 Fed. 2d 111, certiorari denied 311 U. S. 700.

been no final settlement date arrived at.[2]

Even though the comptroller general may not approve of such administrative determination date, nevertheless the administrative officer's decision controls. Final settlement does not mean final payment, or whether or not payment may be held up and refused in the General Accounting Office, but it in effect means the determination that the work has been concluded by the administrative officer in charge. It denotes the proper administrative determination with respect to the amount due.[3]

In fact, I might specifically comment from one case, *United States v. Bussie.*[4] The final settlement date was determined to have been July 9, 1942 and it was found that the year period within which suit might be filed expired as of midnight July 8, 1943. It was held that the administrative determination of the final settlement date controlled and that was July 9, 1942. It was held that the suit was not seasonably filed. There was not enough elasticity to this condition precedent to the right of recovery to permit of a statement that this suit was promptly filed or properly filed even though late by only a few hours. That is just about as close as you can get, and still have the door shut in your face.

ELMER B. McCAHAN:

There is one problem of outstanding current interest involving efforts of the United States to collect withholding taxes. Since the revenue laws have provided for the employer to withhold from payments of wages, money for social security and income taxes, the Internal Revenue Department has undertaken a campaign to make the surety pay what was withheld from wages but not paid to the Collector. The first appellate court decision on this question was the subject of Mr. T. L. Sedwick's article, "Withholding Tax Claims under Payment Bonds," published in the April 1953 issue of the Insurance Counsel Journal. Because of the many decisions handed down since Mr. Sedwick's article and the current interest in this subject, I undertook to bring it up to date. My article is published in the April 1954 issue of the Journal. If any of you are interested, we suggest you read Mr. Sedwick's discussion first. We won't try to mention here all the decisions discussed, but will point out that at the time Mr. Sedwick prepared his paper, not much more than a year ago, there was one decision of a United States Court of Appeals, seven of Federal District Courts and one of a New Jersey Equity Court. Of the seven District Court decisions the Government had won in three, the surety in four. As of this date, there are at least five district court decisions, two decisions of the United States Court of Appeals for the 9th Circuit; two of the United States Court of Appeals for the 10th Circuit; one of the United States Court of Appeals for the 5th Circuit; a total of ten federal court decisions holding the surety on a payment bond is not liable to the United States for that part of the wages withheld by the contractor pursuant to the revenue laws. As the court aptly puts it, the purpose of the payment bond is to protect laborers and materialmen. It is not intended to assure payment to the United States of withholding taxes.

Subsequent to the date of my article which is published in the April 1954 issue of the Journal, the U. S. District Court for the District of South Carolina held in a decision handed down April 29, 1954, in *United States v. Crosland Construction Co., Inc.*, 120 F. Supp. 792, that sums withheld by the taxpayer (contractor) from the wages of its employees do not constitute "wages" within the terms of the surety bond for wages. This court reviewed and cited many of the recent decisions on this question which we have discussed. (Applause)

WALTER A. MANSFIELD:

We do not propose to take up time of any consequence in discussion of a matter of importance, not heretofore discussed this morning. That is, the surety's rights by assignment, or its equitable rights in comparison with the rights of an assignee bank, or a Trustee in Bankruptcy.

So much has been heretofore written upon this topic, and it, in and of itself can be so time-consuming, that we will simply refer to certain of these articles to which you may turn for guidance.

We refer particularly to the "Assignment of Claims Act of 1940" by Allen Wight of the Dallas Bar, the 1941 Proceedings of Insurance Law Section of American Bar Association. Also the 1942 Proceedings of the American Bar Association —"Surety's Rights Under Its Indemnity

[2] *H. G. Christman Co. vs Mich. Gypsum Co.,* 85 Fed. 2d 474.

[3] *Illinois Surety Co. vs U. S.,* 240 U. S. 214.

[4] 51 Fed. Supp. 996.

Agreement" by Alexander Foster, Jr., as well as "The Miller Act and Related Legislation" by Walter A. Mansfield.

As well as "Assignment of Claims Act of 1940–Second effort" by Allen Wight, 1944 Proceedings Insurance Law Section, American Bar Association.

Continuing in point of time "Judicial Trend of Subrogation" by Clyde J. Watts of Oklahoma City. "Conflicting Claims of United States and Surety to the Unexpended Contract Funds" by John J. Malley, Insurance Counsel Journal, page 146, July 1947 Issue.

"Rights of Materialmen and Surety in Contract Funds as Affected by *United States vs Muncie Trust Company.*" W. Braxton Dew. Proceedings of the Section of Insurance Law, 1948-1949.

"Assignment of Claims Act of 1940–A Decade Later" by Henry W. Nichols. Published in the University of Pittsburgh Law Review, Volume 12, No. 4.

"Practical Problems Facing Surety on Bond of a Defaulting Public Contractor." James Evans Cooney. Insurance Counsel Journal. April 1954, page 145.

Those of you who have presented to you cases upon this problem can undoubtedly find assistance or the answers by referring to the aforementioned articles.

I think I can speak for Mr. McCahan as well as myself in expressing the hope that our discussion this morning and the more complete printed detail in the Insurance Counsel Journal will be of assistance in future years.

MR. GALIHER: I have two written questions here which have been submitted to be directed to our speakers here this morning. The first one reads as follows: An action is filed by a material man within the one-year statutory period for suit under the terms of the Miller Act. Later a second material man intervenes in the original suit and files an intervening complaint to recover his unpaid claim. At the time such petition to intervene is filed, the one-year statutory period for suit expires. Has the second claim been barred by limitation, or does the date of the filing of the original complaint control? (Question submitted by Mr. Hugh Reynolds, Indianapolis, Indiana.)

MR. MANSFIELD: I would state very definitely on that and the opinion would be that the statute of limitations has expired. I don't believe that a delinquent material supplier can ride along on the coattails of a material supplier who was alert. I believe it is possible for an intervening petition to be filed in a pending suit provided that the intervention is within the year.

MR. GALIHER: May an action be maintained against the principal surety upon a general contractor's bond to recover damages on account of personal injury sustained by a third party who claims the injuries were the proximate result of the failure of the contractor to perform his contract? (a) The bond is in the usual form of public construction contracts, and I quote "faithfully perform said contract and pay all claims for labor and material." (b) The contract requires the constractor to place barricades and lights which he did not do. (c) The suit is for the breach of contract and not in tort.

(Question submitted by Mr. Hugh Reynolds).

MR. McCAHAN: Is there a lawyer present? (Laughter).

I don't see how we can give a definite answer to that. It depends on the law of the jurisdiction where the contract is entered into. Certainly, if the contractor has agreed by the terms of its contract to provide adequate protection or to provide liability insurance, and he has breached his contract by failure to do so, it is probable that a bond conditioned for the performance of the contract will have some obligation.

I certainly would not think, though, that the person injured could sue on the performance bond. The injured party may very well have action against the state, city, county, owner or whoever may be in the contract, and in turn the owner may have a right to look to the surety for indemnity under the performance bond, if there is not adequate public liability insurance.

But we could not answer that definitely. The law would be different in different jurisdictions. About the only answer we can make is just that. If the public body or the owner sustains a loss through the neglect or default of the contractor and the bond is conditioned for the performance of the contract, then probably the surety would have an obligation.

MR. GALIHER: Mr. Mansfield and Mr. McCahan will be happy to endeavor to answer any questions that any one of you might wish to make.

MR. CLINTON M. HORN: I was wondering if one of them would discuss

the effect of the surety requiring the principal to deposit security when the contract bond is signed, and what effect that might have upon the surety's decision what to do in the event of an imminent default.

MR. McCAHAN: Mr. Horn, that would be private transactions between the contractor and the surety. Certainly, there is nothing whatever to stop or forbid a surety going to its contractor and saying, "I will execute bond upon the condition you deposit collateral with me." The extent to which that would influence his decision would depend upon your states, what collateral you had, possibly the extent to which the work is completed, what the estimated cost of completion is, the extent of the solvency of the contractor. It would go right back to, how much money did you have? Did you take from the contractor a substantial sum?

It could very well be that you could run considerable risk in undertaking to finance the completion, or use it to finance to completion. It depends on your facts.

MR. HORN: What is the practice of the surety companies in that respect?

MR. McCAHAN: There is none. I would say there won't be one case. A contract bond, Mr. Horn, is a financial guarantee, and the underwriting of a contract bond depends upon the contractor's experience, his ability, his experience in the line of work undertaken, his financial status, his cash position, his equipment, and all that enters into the picture.

It is the same as application made to a bank for a loan. It depends upon the status of the person borrowing money. A contractor likewise comes to a surety for a bond, but he has to show to the surety company his financial position as well as his ability to perform the work.

I would say this, and I think with some reasonable assurance, that any surety company requested to sign a bond for a contractor, in whom it had such little faith as to require a deposit of collateral, is more likely to reject the application. In other words, any contractor, who is so poorly equipped financially or otherwise that the only conditions upon which the surety bond can be handled is to exact collateral, is not a good risk.

MR. HORN: In the application there is provision for the requirement of collateral.

MR. McCAHAN: In the average application I don't think there is provision for the deposit of collateral prior to execution of the bond. I think you will find indemnity agreement, in most of the applications, stipulates that in the event of default, the surety company is privileged to pay, or to settle, or dispose of claims against it, unless the contractor requests it to do otherwise and deposits collateral to protect the surety company.

I don't believe that any application for bond is coupled with a condition that the contractor will deposit collateral with the surety. That is a matter of separate contracts, Mr. Horn.

MR. MANSFIELD: I might suggest further, too, that if the contractor is in a good enough financial position, or there are assets that he can turn to, so that a default occurring, the surety, with the court and the indemnity agreement, could ask for collateral to be deposited, the contractor is not too bad off. He might go ahead with a bill of exoneration. That was suggested quite a few years ago.

MR. McCAHAN: When a contractor gets in a financial shape where he has to come to a surety company for help, he doesn't have any collateral to put up, whether it is called for or not. It is an academic question, but it has no practical value, because by the time he gets in a position where he is facing bankruptcy or default, he has exhausted every dime he has and every dime he can lay his hands on, and too often the contractor does not disclose to the surety his actual financial situation, when he comes in and asks for help.

That is one of the things we were most anxious to call to your attention, and that is to watch and be sure you get all your facts. It has happened more than once that a contractor calling for help misleads his surety deliberately or otherwise, and you will find you have taken on obligations you did not even anticipate.

MR. WILLIAM P. SMITH: Where the surety is obligated under the contract bond to complete, and refuses to complete, the first question I would like an answer to is, what would be the measure of damages for his failure to complete; and the second question is, is there any possible way which the owner could enforce performance of the agreement under the bond to complete?

MR. McCAHAN: Mr. Smith, I commented on that when I pointed out that the discussion revolving around the position a surety should take contemplated a

bond which did not contain a stipulation whereby the surety agreed to complete. I also said that in any case where the bond stipulates—and there are instances, I think; the bonds in the State of New York contain such a clause—you will find the surety does perform its obligation. It undertakes to complete by entering into a contract with the owner, and then going out and hiring somebody else to do the work, or it may persuade a contractor to take over the job that the insolvent one has undertaken to complete, at the surety's risk.

But answering your specific question, even though the bond may expressly stipulate the surety agrees, in the event of default, to complete the work, I don't know of any way that any public body can compel the surety to do that. I don't know that there is any way whereby you can get a writ of any kind to compel the surety company to do it.

I don't think the question is pertinent because the surety companies perform their obligations. I think I am reasonably safe in saying that. Most of the companies will perform their obligations.

MR. MANSFIELD: We might as well have a little bit of fun while we're at this. I agree with what Mr. McCahan says. Legally, he is completely and 150 per cent correct. However, as a practical matter, I have seen situations in Michigan where a demand has been made on a surety bond to complete the contract, and the surety has rightfully said, "Well, you go ahead. Get your low bid responsible contractor. The deficiency we'll pay you, and then you give us a discharge on our performance bond."

Legally, that position is perfectly sound and perfectly proper, and I have seen our state officials get up on their horse and say, "What do we have bonds for? You are supposed to go out and get these bids. You are supposed to take the performance obligation. You enter into the contract with the contractor, and in effect we just won't take your bonds anymore." They have got a pretty good weapon they can hold over your head.

So you have got the practical side of it. You work along just about as well as you can there.

MR. McCAHAN: I feel obligated to make one more comment on this general subject. Surety companies do perform; that issue does not arise. None of us—that is, it would be a rare case, or under unusual circumstances, or there may be some incident with respect to this case. Other than that, the sureties will perform the obligation of the bond, and I feel I should say this, because I don't want anything to go in this record to indicate otherwise.

MR. NEWTON GRESHAM: Mr. Mansfield mentioned a situation where public bodies threatened the sureties, because of a falling-out with the surety, not to take its bonds anymore. We have had that come up several times in our practice, although it has never been brought to an issue. I would like to ask Mr. McCahan if the surety companies have any general policy as to what they would do in that situation.

MR. McCAHAN: Mr. Gresham's question is, what is the general policy of the surety companies if a public body should attempt to hold an axe over their heads by saying, "If you don't go ahead and perform, we will decline to approve you."

We are getting a little off the subject there. Our purpose here was merely to discuss the legal position of the surety, the obligations and the problems it has to put up with. There will always be, in any situation, matters of public policy and matters of public relations. We can't give you an answer as to what sureties would do generally. I will go back to what I said. Generally—I will make it stronger than that—invariably, the surety companies will perform their obligation. What they agree to do, they will do. If faced with a situation where some public officer or public body tries to hold a hammer over the surety by saying, "If you don't do this, we will disapprove your bonds,"—I don't know the answer. It depends upon the situation, the location, the circumstances, and many things that could influence a decision on that.

Would the surety company just generally die down because some public officer says, "If you don't do this, we'll disapprove your bond,"—I doubt that. We have a lot of pride in our position and willingness to perform. We would probably get our backs up a little ourselves, if somebody tried to hold an axe over our heads. We wouldn't just sit back. We have an obligation to perform. We can and do get our backs up and will continue to, if someone tries to turn on the heat.

Does that answer you, Mr. Gresham? It's

not a very clear answer, but that's the best I can do.

MR. GRESHAM: That answers it, except that I was interested in whether there is general understanding among the sureties.

MR. McCAHAN: No. sir. There is no general or tacit understanding among the sureties as to what they would do under those circumstances.

MR. NEWTON E. ANDERSON: Mr. McCahan, I would like your views as to what you think the surety's liability is going to be by reason of the expansion of the Magnolia Petroleum case, liability under a material bond, as it has been expanded in the case of the *General Electric Company v. Jack Abbott* and the *General Casualty Company,* where they hold the surety liable for material furnished to subcontractor on a purchase order where the material was delivered at the dockside in Denver for use in Los Alamos, material delivered six weeks after the job was accepted and completed. The material was sold by the subcontractor to another subcontractor.

MR. MANSFIELD: You have a material supplier delivering a quantity of materials to a particular point, intending that the contractor will then take those materials, but he does not do so. He bills them into another project. Let's say it's not bonded by the same surety. The material supplier, in effect, would argue that having made his delivery properly, he is entitled to the protection of the bond. Would the surety be obligated? Is that your question?

MR. ANDERSON: May I state, in this particular case, half of the material under the purchase order went into the particular job, and half of the material was sold to another contractor six weeks after the job was accepted. The Federal Court in Albuquerque allowed a recovery for those materials.

MR. MANSFIELD: I would be inclined to say that that decision would stand affirmed on appeal. The reason why I make that answer—I don't recall from memory the particular case that you refer to and the authorities. But I do recollect instances of cases where gasoline, for example, has been supplied for a construction project, and the construction project ran a matter of miles. The material supplier placed this gasoline at strategic points along the route of contract performance, anticipating that his gasoline would be used and expended in that contract construction.

It was the decision of the court in that case that it was unnecessary to take evidence, that the material was actually consumed. There is a shade of doubt still in my mind, though, because the court in that case predicated its decision upon a finding of fact—or inference, let's say—"we think we can infer that this gasoline was used on that contract; we won't require evidence that it was used."

I think in your case the plaintiff is entitled to the identical inference. I recognize, however, there is a good solid issue because you are coming up with testimony that shows that a portion of that material was actually not used in that, and I would say that would be a nice question to take up on appeal.

MR. ANDERSON: May I say that in this particular case, the case was not appealed, and it was paid.

Pardon my taking up time, but we have run into the same problem with the same concern, General Electric Supply, where the materials were put into a warehouse, and warehouse receipts issued, and the warehousemen have the material, and we are being sued.

MR. MANSFIELD: I think you are quite probably correct, and I think that those decisions will continue to go against the surety. I merely make this one point: I have seen times where the surety company representatives and attorneys have reached the conclusion that plaintiff would recover and they have proceeded to pay—maybe voluntarily, maybe settled while trial is pending, maybe paid without appeal—then some lawyer will come along, let's say, and take the case up on appeal, and maybe he'll win.

The issues there—until you have the answer—you just don't know.

MR. HOLLY FLUTY: This, I think, is a question that perhaps many of you have already discussed. In our home office in Hartford we had a situation where, for instance, International Business Machines will send in a request indicating whether or not we have written the bond on a particular contract, and if so, does that bond guarantee payment of material furnished during that contract.

Our underwriters at Hartford have been instructed that in such a case our usual practice—or their usual practice—is to indicate that we have written the bond of

such-and-such a number and amount, and ordinarily to furnish a blank copy of the bond and leave the interpretation to the man requesting the information. However, it has come up where an underwriter who merely in the flood of daily mail received one of these from a steel company where it had been indicated that we were surety on a bond for a contract, and he was to furnish a roof deck. He sent in just such a form. Unfortunately, the underwriter wrote on the form, on which it was indicated merely to sign on the bottom and return, that we had issued a bond of such-and-such an amount, and that we would guarantee the payment of all bills for materials supplied, in just so many words.

That was sent out. I doubt that anyone would ever have found out about it except that the question arose, after the statutory limit, theoretically excluding our obligation under the bond, where they produced this piece of paper and indicated, "We have in writing words to the effect that you guarantee the payment of all bills, without any conditions whatsoever."

This has been kicked around in Hartford a great deal, and at length, and I merely wondered if I could have someone here explain a little bit about his interpretation about who pays how much, and if so.

MR. MANSFIELD: Mr. Fluty, I think this fence is getting awfully uncomfortable; in fact, I am tired of straddling it. Again, I think the answer has to be indefinite. I don't recall any case where that identical issue has been determined, passed upon, in the court of last resort.

We do have authorities that certainly suggest the fact that a statutory obligation cannot be increased, shall we say, by such an informal agreement, such as that of which you speak. Again, I think it is questionable. I would be a little bit fearful—I might be more than a little fearful, let's put it that way.

MR. McCAHAN: Mr. Fluty, I would like to add one word. Practically, that situation did happen. There was a careless —I would say—commitment made by one of the field men who really did not have the authority, but it was a commitment, nevertheless. We stood by it. We paid it. We considered it a commitment of the company, and it was an obligation we should pay.

I agree with what Mr. Mansfield says. It's a question. You have to straddle it. Yon can make an issue out of it. You can show that the person who signed it had no authority. You can show that the person who delivered it had no authority to do it. You can show that it was an informal commitment, not an obligation under seal.

From the standpoint of the practicing lawyer, as Mr. Mansfield has stated, it is indefinite. From the standpoint of the home office counsel, I think we probably would accept it as a commitment of the company.

MR. FLUTY: That's fine.

MR. ALANSON FREDERICKS: I think in partial answer to Mr. Fluty's question, and also in regard to Mr. McCahan's comments, we have had the exact situation. In that particular instance they said it is not a waiver of a statutory limitation. It is the formation of a new contract.

MR. GALIHER: There being no other question, I would like to take this opportunity, on behalf of the Association, to thank Mr. Mansfield and Mr. McCahan for their exceedingly able presentation which has been made here for us this morning. Thank you so much. (Applause).

(The Open Forum session recessed at eleven forty-five o'clock.)

FRIDAY AFTERNOON SESSION
July 9, 1954

The final session of the Open Forum reconvened in the North Wing Auditorium at two-twenty o'clock, President Gooch presiding.

PRESIDENT GOOCH: Welcome to the last session of the Open Forum. We have four speakers for you this afternoon, and they really have something to bring to you. They are going to be talking about what is probably the hottest subject in the United States today affecting the insurance industry. Whether or not you agree with any speech is a matter of individual taste. We are all twenty-one years of age, and I like to think that each and every one of us would like to know what is in store for us on both sides of any question.

There has been some little criticism of this program, and on that score I take 100 per cent responsibility. But, to that extent, may I welcome you.

At this time may I introduce to you Harold Scott Baile, Vice-Chairman of the Open Forum Committee, who will introduce the Moderator and the Moderator

will, in turn, introduce the speakers. (Applause)

MR. HAROLD SCOTT BAILE: Mr. President, I think the task that has been assigned to me today is probably the simplest task that has ever been assigned to anyone. It is simple primarily because I need not even attempt to tell you how the program will develop. It is even more simple because the Moderator of this program needs no introduction to anyone of you. Mr. James Dempsey! (Applause)

MODERATOR JAMES DEMPSEY: Mr. President, Mr. Baile, Ladies and Gentlemen: I am glad to hear Tiny say there has been some criticism of this program. I would rather have the criticism in advance, to tell you the truth, rather than after it is over.

The topic which will be under advisement by men who have made a great study of it is one which certainly confronts everybody who has any interest at all in the welfare of insurance, whether you be an executive or an attorney, whatever your particular interest may be in this great subject. But certainly it touches all of us.

It is well, indeed, that perhaps we do turn it into rather a family meeting today. Suppose we discuss this topic off the record and, perhaps, ex-cathedra, for the reason that the financial responsibility with the great spectre, the great shadow over it of compulsory insurance, is something which certainly is a stark reality on whatever the future may hold.

So those of you who have foregone the temptations of the different golf courses and have come here to listen, perhaps, cognizant of the fact that if any subject, if any field, is certainly tied up in a snarled knot, it is the subject that we are going to try to analyze for you today. In that respect, let me relate a story I heard the other day of a little lad on the East Side of New York who was boasting about his step-father.

He said what a grand step-father he had. He said, "You know I got the greatest step-father in the world. He's a wonderful man. You can't believe what a fine fellow he is. You know, he beats me, and he spanks me, and all that, but I desoive it. I'm not such a good boy. He beats me, and he spanks me, but it's me own fault.

"I tell you how I loined how to swim. He takes me up to Twenty-fourth Street one day, and he t'rew me in the water—forty, fifty feet deep—and he said, 'Either drown or swim.' And that's how I loined to swim. He's the finest step-fadder in the whole woild, that step-fadder of mine."

So the boys were listening with great admiration about this fine step-father. He said, "I show you how good he is to me. He took me up to the mountains a couple of weeks or so ago, to a lake. And he rowed 'way out in the middle of the lake. He got me out there, he rowed, and we had a good time, and finally we were maybe two or three miles off-shore, and he t'rew me in again."

One of the boys in open-wonderment popped his eyes out of his head and said, "Gee, you mean he t'rew you out two or three miles from shore?"

"Yeah," he said, "right out in the middle of the lake, two or three miles from shore."

The other lad said, "Did you have any trouble?"

He said, "No, I swam it. But I must confess I had a heluva lot of trouble gettin' out of that burlap bag." (Laughter)

I don't know whether the insurance industry finds itself in a burlap bag or not, but we have a very real, vital, live issue, a problem of financial responsibility, with the shadowing influence of compulsory insurance. So four men in different fields of this endeavor have prepared papers today, and after that we will have some time for questions.

These men are specialists and they know their respective fields. To the left, we have the man who will discuss the legalistic phases of the subject with respect to policy defenses and defense techniques, and he is Allan P. Gowan, General Claims Attorney of the Glens Falls Indemnity Company.

Next to him is a man who has prepared a paper on the issues that are very, very much to the forefront in every state of the union, and I am sure his paper will be received with great interest by you all. He is the Vice-President, Secretary and General Counsel of the All-State Insurance Company, Mr. Henry S. Moser.

On my far right is our first speaker, Mr. Joseph P. Craugh, who will discuss the subject of "The Irresponsible Motorist—Enigma or Dilemma." Mr. Craugh is Vice-President and General Counsel of the Utica Mutual.

Next to him, on my immediate right is Jim Donovan, of Watters and Donovan, of New York. He is Chairman of the Com

mittee on Automobile Insurance Law of the American Bar Association, General Counsel for the National Bureau of Casualty Underwriters, National Automobile Underwriters Association, the Surety Association of America, and many other organizations.

We will begin this program on the problems arising from the financially irresponsible motorist, first, by hearing from Mr. Craugh, General Counsel and Vice-President of the Utica Mutual, whose topic will be "The Irresponsible Motorist—Enigma or Dilemma." Mr. Craugh! (Applause)

The Problem of the Financially Irresponsible Motorist

Enigma or Dilemma

JOSEPH P. CRAUGH
Vice-President and Counsel
Utica Mutual Insurance Company
Utica, New York

THOSE who are charged with the responsibility of arranging programs for meetings such as this where representatives of casualty insurers and their counsel foregather in solemn convention, find it difficult these days to resist the temptation of injecting in the program a discussion of the problem of the financially irresponsible motorist. This meeting is no exception to that rule.

No matter how prettily we dress up the title of the discussion, whether we refer to it as the Problem of the Financially Irresponsible Motorist or the Problem of the Uncompensated Victim of the Motor Vehicle Accident, some one is sure to propose compulsory automobile insurance as a solution of the problem.

Nevertheless it is important in any discussion of the automobile accident problem to differentiate these two aspects of the problem and to determine at the outset just what is the objective to be sought. In solving the problem is it the primary objective to see to it that the victims of automobile accidents are to be compensated? Or is it the primary objective to see to it that all drivers should establish financial responsibility to cover adequately any injury or damage which they may inflict?

If the accent is to be placed upon the providing of compensation for the victims of automobile accidents then a series of perplexing questions present themselves for answer. Is compensation to be awarded these unfortunate victims regardless of liability or fault? Is compensation to be awarded in accordance with fixed schedules of benefits or is it to be awarded in the same manner that damages are to be ascertained according to the common law in civil actions? Who is to provide the compensation? Is it the state out of funds in the state treasury? Is it to be taken out of the pockets of the insured motorist, the uninsured motorist or both?

While there are those who believe that the government should provide security for each individual citizen against the risks and hazards of life and living from the cradle to the grave, we have not as yet embraced such a comprehensive program of social security. We still adhere to the principle that the individual is answerable for his own wrongs. We still believe that the financial onus of compensating the victim of accidents should properly fall upon the tort-feasor, that compensation for such victims should not be provided through any state agency and finally that the best way of meeting one's obligations for damage or injury caused to others is through a system of private insurance.

Placing the emphasis on compensating the victims of automobile accidents will not solve the problem. If first things should come first, then the primary objective in solving the automobile accident problem should be the establishment of financial responsibility upon the part of those who subject others to the hazards of their negligent driving.

The State of New Jersey has attempted to find the solution of the automobile accident problem through the establishment of an Unsatisfied Claim and Judgment

Fund law. In so doing New Jersey has placed the primary emphasis upon compensating the victims of motor vehicle accidents. It does not pretend to encourage uninsured motorists to assume their rightful share of responsibility for their negligent conduct on highways. If anything it encourages uninsured motorists to continue to remain financially irresponsible. So long as this law remains in the statute books, New Jersey will always have a serious automobile accident problem. The insured motorist pays for the operation of the law in three ways: The $1.00 tax; the ½% tax on insurance companies; the unlimited costs of investigation and defense of claims against uninsured motorists. Is it fair or honest that those who have already provided for their own financial responsibility should also be required to support those who cannot or are unwilling to? The principle of the New Jersey Law provides that those who are insured must not only bear the burden of the cost of their own insurance but they must further bear the cost of paying judgments and defending those who are not insured. It is primarily a proposal to levy a tax against one class of persons for the relief of another class. It will thus be seen that while the New Jersey Law purports to indemnify certain victims of automobile accidents involving irresponsible motorists, it does so at the expense of the prudent motorist who provides his own insurance protection. On the other hand, it not only fails to provide an incentive to the uninsured motorist to become financially responsible, it actually encourages irresponsibility on the part of uninsured motorists.

In New Jersey the problem is sought to be solved through a compulsory law which in effect tells the irresponsible motorist that through a fund the state will assume his obligations if he fails to pay what the court has determined he owes to the victims of his negligent driving.

Similarly, some insurance companies are now issuing endorsements to automobile liability policies affording unsatisfied judgment coverage for a premium of $5 or $6. In some instances the insurer promises to pay merely upon the presentation of evidence of an unsatisfied judgment secured in good faith against the uninsured motorist. In some instances the insurer agrees to defend the claim against the uninsured motorist and agrees to pay the claim if the policyholder is successful in his action against the financially irresponsible motorist. Again this type of insurance coverage represents the "compensation" approach to the automobile accident problem. One authority, Mr. Roger Kenney, has characterized such unsatisfied judgment coverage as a "bundle of contradictions." He says this will hasten the day of compulsory insurance by casting irresponsible drivers in the role of "bar flies." Again to quote Mr. Kenney:

> "Our contention is that if the unsatisfied judgment fund idea is basically unsound when operated by the state, it is still unsound if written by the companies themselves either through a co-operative fund or on the basis of an added coverage to liability policies already existing. . . . We have always been troubled by the thought that the insurance industry is putting itself in a very peculiar and unjustifiable position when it, in any way, shape or manner, undertakes to pay out its hard-earned money—collected, please remember, from its policyholders—for the purpose of paying a judgment obtained against a person who has no contractual obligation whatsoever with the insurance industry, or who, indeed, has never been so impressed with his fundamental and pressing responsibility to society as to patronize the insurance industry. In this respect, it is nurturing irresponsibility on the part of the driving public and furthermore is building up an automobile insurance bill which is already a heavy burden upon those who recognize their duties and responsibilities."

In some of the states, bills have been introduced providing for the impoundment of the motor vehicle involved in an accident where the owner is unable to post the required security to compensate the injured party. This is an example of legislation in which the emphasis is placed more upon furnishing an incentive to the uninsured motorist to become financially responsible, rather than attempting to provide compensation for the victim of automobile accidents. Without wishing to discount the efficacy of the device of impoundment, it should be admitted that many legislators take a dim view of such a drastic remedy while others shun it because of its discriminatory feature of permitting the non-resident motorist to escape during the customary 48 hour waiting period.

Aside from the above proposals offered as a solution or as a partial solution of the automobile accident problem, bills providing for compulsory automobile insurance have during these past three years been introduced in many of our state legislatures. Aside from Massachusetts, the only state thus far to have enacted a compulsory law, the controversy over such legislation has raged more fiercely perhaps in New York, New Jersey, Wisconsin, Maryland, Michigan and California than in any of the other states. Advocates of compulsory automobile insurance proceed upon the assumption that it is highly desirable and in the public interest that all motorists using the public highways should establish their financial responsibility. In spite of this agitation for compulsory automobile insurance in the several states, no state save Massachusetts has yet seen fit to enact it into law. In New York an administration-sponsored bill was defeated twice in recent sessions of the Legislature.

Opposition to compulsory automobile insurance legislation has been based upon several grounds. Among these grounds are (1) Additional expense in administering and enforcing the law, (2) Additional expense and paper work on the part of insurers in filing certificates, notices of cancellation, etc., (3) Credit losses because of protracted periods of time for the giving of notices of cancellation either by the insurer or the insured, (4) Interference with existing installment premium payment plans, (5) Additional expense in connection with the issuance of six months policies, (6) The danger of the ordinary liability policy becoming an absolute policy, (7) The fear of a reduction in agents' commissions and (8) The fear of political intervention in the making of automobile insurance rates.

Another glaring defect in compulsory insurance is that it does not apply to non-resident motorists. In a state having a high percentage of non-resident traveling, this argument weighs heavily with certain members of the state legislatures.

Also it is argued that compulsory insurance brings in its train a greater degree of "claims consciousness" than now exists and that compulsory insurance will not discourage and may even encourage recklessness on our highways.

Prior to 1953, the agitation for compulsory legislation had perhaps reached its climax in 1937. As a result of this agitation there were two important developments, viz., the voluntary provision of medical payments insurance in 1939 and the enactment of security type Safety Responsibility Laws which first set in about 1940. These two developments have probably been more largely responsible, first for the minimizing of financial losses resulting from motor vehicle accidents, and secondly, for decelerating the trend at least up to 1953, toward compulsory automobile insurance, than any other single factor.

For those who believe that in solving the automobile accident problem the primary emphasis should be placed upon the "Compensation" approach rather than attempting to bring the recalcitrant uninsured motorists into line, it should be conceded that the social and economic losses inflicted upon the uncompensated victims of automobile accidents are today not nearly so appalling or so widespread as they were twenty years ago.

Except for Massachusetss, it is safe to say that in few states were more than one-third of the motorists insured twenty years ago. In many of our states today, the percentage of insured motorists is estimated to run from 75% to 90%. In New York the percentage is estimated at 96%. Twenty years ago various studies made by legislative committees in several of the states showed that in about 60% of the cases of persons injured in motor vehicle accidents, no compensation whatsoever was received and in 66⅔% of the fatal cases, the survivors received no compensation. Twenty years ago a few of these victims and their dependents may in some cases have been reimbursed through workmen's compensation or through life insurance. But there was not available to those victims certain other sources of financial assistance which have come into existence for the benefit of the public and employees either through voluntary action or by legislation. Among these sources of indemnity today are the following: Private Passenger Automobile Medical Payments and more recently Extended Medical Payments insurance which, of course, applies irrespective of legal liability, Group Life, Accident and Health Insurance, Hospitalization and Surgical Expense insurance and Disability Benefits in certain states, in addition to ordinary life insurance and workmen's compensation. Today nearly two-thirds of the total population of the United States are covered by some form of hospitalization in-

surance. Nor must it be assumed that all uninsured motorists who may be held liable today for automobile injuries and fatalities are financially irresponsible. Under our security type Safety Responsibility Laws now in effect in most of the states, annually thousands of deposits of security are made aggregating millions of dollars. The point to be made is that the social and economic losses suffered by the innocent victims of the uninsured motorist today, are minuscule in comparison with the devastating and widespread uncompensated losses suffered by similar victims twenty years ago when only one-third of the motorists were insured.

In settling the automobile accident problem, whether the primary emphasis be laid upon the "compensation" approach or upon means of bringing the recalcitrant uninsured motorist into line, it must be conceded that there is no panacea for the problem; that there is no legislative device or formula that will guarantee 100% satisfaction at all times. Whether it be compulsory insurance or otherwise there will always be cheaters, chiselers, bootleggers, hit and run drivers, uninsured non-resident motorists, etc. who will always succeed in making it impossible to reach that state of Utopia where everything is 100% perfect.

In two states besides Massachusetts, compulsory insurance has been ordained for minor owners and operators of automobiles. These states are New York and Maryland. In two states, New York and New Jersey, legislation has been enacted which makes it mandatory for the motorist to disclose whether or not he has liability insurance in effect with respect to the motor vehicle sought to be registered. This requirement should have two results, both of them desirable. First it will permit the authorities to separate the sheep from the goats and to identify those owners of motor vehicles who are unable or unwilling to provide financial responsibility and thus will eliminate the necessity for making estimates as to the number of uninsured motorists. Second, requiring the applicant for registration to certify whether or not he has in effect adequate liability insurance may have the psychological result of inducing the uninsured motorist to become insured.

One of the great advantages of the Security type of Safety Responsibility Law over compulsory insurance proposals is that the Financial Responsibility Law, unlike the compulsory law, does afford some redress against the non-resident motorist. Under the reciprocal provisions of the Financial Responsibility Laws now in effect in practically all of the states, the requirements as to posting of security and maintaining proof of financial responsibility following an accident are now enforceable by the Commissioner in the domiciliary state of the offending non-resident.

Various means may be undertaken to implement and strengthen our present Fiancial Responsibility Laws so as to reduce the number of financially irresponsible motorists to a minimum. Reference has already been made to an impoundment statute. Experience had in some of our Canadian provinces shows this to be a powerful prod in increasing the number of insured motorists. Our existing Financial Responsibility Laws can be strengthened in other respects. There are some who advocate that an affirmative provision should be inserted in our present financial responsibility laws which will make it mandatory for all owners of motor vehicles to maintain proof of financial responsibility at all times and for the owner to carry with him at all times the motor vehicle is being operated, evidence of such responsibility. In other words, the Financial Responsibility Law would state explicity and directly what the present law intends to do implicitly and indirectly and heavy penalties would be imposed for failure to maintain proof of financial responsibility.

By thus strengthening our Financial Responsibility Laws, with continued stringent enforcement of these laws, requiring motorists to declare whether or not they are properly insured, by means of impoundment legislation, extension of medical payments coverages, together with strict enforcement of our highway and traffic safety laws, the problem of the financially irresponsible motorist should soon shrink in all of our states to such trivial proportions as to render the question academic. (Applause)

MODERATOR DEMPSEY: One of the important features about such a convention as this is the fact that we have gathered here members of this Association and their guests from every state of the union, and from practically every province in the Dominion of Canada, and we have, by this assembly, noticed the points of contact, and the points where we cross.

Certainly, one of the paths we all must travel is this very complex and devious question, and that is the one involving financial responsibility laws, with the great problem of insurance legislation.

We have next a man who has literally rolled up his sleeves. He is a bear-cat if I ever saw, despite his diminutive size. He is from the State of Illinois and he has gone up and down the length and breadth of the land before legislatures in practically each of the states where these questions have arisen. He certainly is a battler in every sense of the word on this subject.

You will hear from him a discourse which has the background of the blazed trail that he has made in what to him is practically an evangelistic quest. This subject is very dear to his heart. He has done a great deal of research on the subject.

I am happy at this time to present the Vice-President, Secretary and General Counsel of the All-State Insurance Company of Illinois, Henry S. Moser, who will discuss, "Some Practical Aspects of the Uninsured Motorists' Problem." Mr. Henry Moser! (Applause)

MR. HENRY S. MOSER: Mr. Chairman, Ladies and Gentlemen of the Association: It is a particular pleasure and privilege to talk to the elder statesmen of the International group, those too old, too decrepit to play golf. This must be the thinking section of our meeting. Only that would keep you indoors on a day when the sun is so bright and the prizes are so many.

It is always a difficult problem to follow my good friend Joe Craugh. Joe and I agree about so many things that it is an unusual situation when we found ourselves in disagreement upon one or two facets of a problem of the magnitude that is the subject of this Forum.

I can agree with practically everything that Joe has said to you this afternoon. My only feeling about it is that Joe stops just a little too soon. Personally, and as an executive officer, of a casualty insurance company, I would prefer the status quo. As a member of the industry, I would prefer that the legislature of the citizens of this nation agree that we have no problem at all. That would be a much happier situation for all of us.

I cannot bring myself to the state of mind that this problem can be met by the things which Joe Craugh advocates to you and with which I am in heartfelt agreement, because whatever steps we take, there are always going to be some folks who are going to be hurt by financially irresponsible motorists, and there will always be a clamor for complete protection.

So I am one of those foolhardy persons who, in the approach to this problem, have perhaps foolishly—and many folks think so—the temerity to say that the suggestions which have been advocated by Mr. Craugh and many others are fine so far as they go, but if we are to solve this problem, we must also, in some fashion, afford some financial relief to those people who are injured by financially irresponsible motorists.

Compulsory insurance, with all of its faults—I think you will find in the course of my paper that I am as violently opposed to the enactment of such laws as anyone in this nation—but we must be frank to admit that it reduces to some extent the number of people who are unable to collect for injuries caused by financially irresponsible motorists.

I agree, too, with Mr. Craugh that no solution we can find will afford complete protection. There has never been a problem in this, or in any other industry of a public nature, where a solution was the optimum solution that could be found for the problem and one which afforded complete relief. But if we can't find one which does that, there is no reason why we must remain in the situation at it now exists and close our eyes to attempting some other remedy which will afford the largest extent of relief that is available.

Practical Aspects of the Uninsured Motorist Problem

HENRY S. MOSER
Secretary and General Counsel
Allstate Insurance Company
Skokie, Illinois

IN recent weeks I was impressed by the attention which the public gave to the McCarthy-Stevens hearings emanating from Washington. The efforts of St. George to slay the dragon, or, if you prefer it otherwise, the efforts of the dragon to slay St. George captivated the interest of the country. Millions of our citizens followed and presumably mastered the involved matters which were at issue in these hearings. I do not decry this attention on the part of the public. Certainly all of us must be in favor of the public being interested in any contemporary problems since full enlightment is a necessary adjunct of the democratic process.

What does perturb me, however, is the fact that the insurance industry has been unable to command one minute fraction of the public attention in connection with its position in regard to the problems created by the uninsured motorist. Since 1927, as Mr. Craugh has said, we have been preoccupied with greater or lesser intensity with the development of a solution for this situation. Over the last three years our preoccupation with this problem, at least in the State of New York, has been almost to the exclusion of other matters. Why is it that despite our best efforts we apparently have been unable to capture the interest of the public? Is it because the battle about compulsory insurance is not one involving St. George and the dragon, or is it because the public thinks the insurance industry is the dragon, and the proponents of compulsory insurance—St George? Is it possible because the public actually has little or no concern with the details of the issue and wants only a solution, or is it that our approach to the public has been wrong? To me these questions pose one of the more important of the practical problems created by the uninsured motorist.

First, let me make my position crystal clear. I have been, I am, and I shall continue to be, opposed to compulsory automobile insurance. Those of us who oppose compulsory automobile insurance have been accused at times by its proponents of using antiquated and threadbare arguments. If the repetition of a sound argument makes it antiquated and threadbare, I must plead guilty. I say to you, however, that it is my earnest conviction that compulsory insurance would ere long deprive all companies, whether stock or mutual, bureau or independent, of their freedom of action, bring politics into rate making and create state funds—all to the public detriment.

I do not intend today painstakingly to restate the arguments against compulsory legislation. You have heard them many times before. I should, however, like to summarize briefly my convictions on two points so we can proceed from a common understanding.

First, the compelling of individuals to carry automobile liability insurance inevitably must result in insurance rates for this form of coverage which are determined not by territorial frequencies and severities but rather by the political opportunisms of those who have political futures at stake. It is inconceivable to me that it can be argued seriously that the bringing of skilled draftsmanship to bear upon the creation of a compulsory insurance law can change in any degree human nature or the political facts of life.

No amount of mental gymnastics can alter the fact that compelling over 4 million motorists, in the State of New York for example, to purchase insurance will generate enormous political pressure. No slight of hand can obscure the fact that those who run for office seize avidly upon issues which will arouse the public. Although I do not propose to discuss the compulsory insurance situation in Massachusetts, I think a reference to the political pull and haul which goes on yearly in that state over compulsory automobile insurance rates is necessary. Certainly the evidence from that jurisdiction is not only clear but indisputable that the compulsory automobile insurance rates are used as a

political issue. Any fair minded individual must concede that when insurance rates become a political shuttlecock, no company or combination of companies can continue to make rates without having added to the rate making formula the factor of political expediency. My concern in this area is predicated not upon the assumption of any inalienable right of the insurance industry to continue to be run as it now is but rather upon my sincere belief that the automobile insurance industry is of real service to the public and that its destruction would be inimical to the public interest.

Second, there is no doubt in my mind that the imposition of an insurance requirement upon our people goes hand in hand with the further destruction of the free enterprise insurance system as we know it. If one be philosophically inclined toward destroying private enterprise by the establishment of state funds, I submit that advocacy of compulsory insurance is the quickest means to such an end.

Lest there be any misunderstanding, let me make clear that my opposition to compulsory insurance does not stem from an underlying belief that the problem presented by the uninsured motorist does not need to be solved. It does. The cure, however, should not be worse than the disease.

Another of our practical problems is to decide what it is that the public actually wants from us. Do they want to be convinced that one method of solving the problem is right and that another method of solving the problem is wrong, or do they want the problem to be solved? I am inclined to believe that the latter is the case. I do not feel that the public has been convinced that compulsory insurance is the only solution. I think they have been convinced only that some solution is necessary.

Could it have been a mistake in the past to have developed alternatives to compulsory insurance, all of which required legislative approval of one type or another? Have we not by doing so put ourselves in the position where we have had to debate the pros and cons concerning details rather than presenting the public with an answer?

In the State of New York for the last two legislative sessions we have gone through the process of opposing one bill while sponsoring another. The year before last we urged a New Jersey type Unsatisfied Judgment Fund law. This plan offered a practical, fair, and completely proper solution. It was defeated.

In 1954 the so-called Voluntary Plan was also urged upon the New York State Legislature. This plan also presented, I thought, a completely fair and proper solution. Nevertheless, it too failed to pass.

We can take scant consolation in the fact that compulsory insurance also was defeated in both these legislative sessions. The net result of two years work was a "stand-off." Surely this cannot be satisfactory to the public for the public is interested in a solution, not in legislative stalemates.

In plotting our future action what lessons should we have learned from these recent years? First we know that one of the major arguments raised by the proponents of compulsory insurance against the solutions advanced by the industry is that no portion of the cost should be borne by the presently insured motorist. All of our arguments—that an Unsatisfied Judgment Fund and that the Voluntary Plan placed only an insignificant burden upon the insured, that the insured for the very small contribution which he would be required to pay under the first plan, or could pay if he chose under the second plan, would receive substantial benefits which would not be available to him under a compulsory program—fell on deaf ears.

In this connection none of us have ever denied that compulsory insurance, at no apparent direct cost to those already insured, would increase to a certain limited extent the number of uninsured motorists. I emphasize at no apparent direct cost because I am sure we are all aware that the indirect price could very well be an amount which presently insured motorists would be unwilling to pay. It is also clear that there are numerous vehicles exempted from the law as drawn in New York, so it is actually not compulsory for all. These exemptions plus the inevitable number of law violators point to the fact that even compulsory insurance cannot hold forth the promise of being a complete solution. Certainly those who drafted the New York law were reluctant to come to grips with the non-resident motorist problem at all. Be that as it may, however, is it not now apparent that if in any state where the percentage of uninsured cars is small, as in New York, the industry without assuming an undue burden could make available to its insureds without any additional charge the same protec-

tion that such insured would have if compulsory insurance was added. Is it not clear also that if this were done the main bulwark of the proponents of compulsory insurance would crumble to the earth and the program would receive enthusiastic public acceptance?

Can we not face this issue squarely? If we are serious in believing that compulsory insurance threatens to destroy the private insurance industry, should we not then be willing to support some other more palatable solution? At the present time in New York State the B.I.P.D. rate level is in the neighborhood of $300 million dollars. Should not the industry, as practical insurance men, be willing to pay some reasonable premium to protect itself and the insuring public against this eventuality?

We have the power and the ability either to develop a new coverage or broaden an existing coverage so as to give those already insured with us protection substantially similar to that which they would receive under compulsory insurance. In other words, the policyholder could be secured against loss due to this inability to collect damages from a negligent, financially irresponsible third party who was the operator of a motor vehicle registered in New York State.

My own predilection in drafting such a coverage is to eliminate property damage on the theory that the average loss is small and does not involve "social loss" and human suffering. I would eliminate any deductible. Deductibles, as you know, have been assailed by the spokesman for compulsory insurance as cutting off from payment those who may need help the most.

I think in any state where the percentage of uninsured motorists is small as it is in New York, we could make protection against loss caused by financially irresponsible residents of the state available to the policyholder without charge, as the industry's contribution to the solution of this problem. This, I emphasize, is my personal view, and, as will be developed later, is subject to strong and vigorous dissent.

In addition we could sell, at a very nominal premium, a similar coverage which would protect the policyholder against loss caused by financially irresponsible nonresident motorists, stolen car operators, and the like.

We, of course, must reserve our right in the future to sell the first coverage rather than to give it away, to protect ourselves if the cost thereof proved to be prohibitive. In this connection my computations convince me that the actual expense to the companies of such coverage in New York would be less than 1% of combined B. I. and P. D. premiums. The cost could ultimately very well be less since this estimate is based upon an assumption that 95% of the motorists are insured. Very recently figures were released by the New York Bureau of Motor Vehicles which showed that some 96% of the vehicles were insured. In addition, the enactment of an impoundment law which I favor too, would do much to increase the percentage of insured vehicles and therefore guarantee that the cost would not become excessive.

There are others who believe with equal conviction that a single appropriate coverage can be sold to the public. They argue that insurance company economics do not warrant the inclusion of any coverage without charge. They feel that the coverage should be broadened to include protection against injury caused by non-residents as well as residents, and that it should be extraterritorial in its application. They feel that the insured motorist would accept such a plan without complaint or any feeling of inequitable treatment if he were charged a nominal premium. I have no quarrel with this approach. If the public were satisfied, I would be entirely content with this solution. It seems to me, however, that we cannot afford to test a new theory which is subject to the same objections advanced under other suggested solutions. We must solve the problem this time or go down in defeat. We cannot hope to win another stalemate.

What I have said to this point applies for the most part to the State of New York. The problem there is of course more acute than in other sections of the country. What should be done in other states where compulsory may become a threat. If the percentage of uninsured cars is too low to make my suggestion for the State of New York practical, then it would seem that we should immediately make available at a nominal price properly drawn coverage to protect the insured motorist from loss for inability to collect damages for bodily injuries resulting from acts of financially irresponsible motorists for which they are legally liable. Impoundment statutes should be enacted to increase the percentage of insured cars. When the percentage of uninsured cars becomes so small as it is now in

New York, the New York program which I have outlined might be incorporated in other states.

At least two companies have already devised and have had approved in several states Unsatisfied Judgment Endorsements which are being sold for approximately five dollars. Preliminary reports seem to indicate that public acceptance is good and that sales are progressing satisfactorily.

Recently, in addition to the issuance of these forms, an Unsatisfied Judgment Coverage Endorsement was released for use in California. Automatically attached, without charge, to all outstanding policies of the insuring company, this form is too new for any public reaction to it to have crystalized.

These developments, although testifying to the serious efforts of the insurance industry to devise and present constructive solutions, contain disturbing elements. One of the endorsements does not provide for paying the insured if the defendant has not contested the case on the merits and in good faith. Another, if the action is uncontested, contemplates paying not the amount of the judgment but rather only the necessary medical, surgical and similar expenses incurred by the insured. Both of these approaches appear to be self-defeating. In my opinion, they stimulate the possibility of fraud. It seems clear that an insured, faced with either no payment at all or a substantial decrease in the amount of recovery, would be tempted to collaborate with the defendant and see to it that at least a token defense was made. We are all aware of the practical difficulties involved in determining whether or not a defense is made on the merits and in good faith. Although it is important to solve our problem quickly, it is equally imperative to make sure that our solutions do not produce such undesirable results.

Another recent proposal came from a committee representing the insurance industry in California which recently rendered a report to a California legislative committee studying the problem created by uninsured motorists. Although I have not been able to study thoroughly the details, it is clear that the essence of this proposal is to make an unsatisfied judgment fund coverage an integral part of the automobile liability insurance policy and to establish an Unsatisfied Judgment Corporation to defend and to pay claims arising out of such coverage. Such corporation also would pay claims made by non-car owners as well. Although eliminating any necessity for uninsured motorists to buy insurance, this plan would compel those already insured to purchase the new coverage. It is not clear to me how the use of direct compulsion solves the problems created by compulsion.

However important the resolution of this issue may be, I do not believe we have time enough remaining to solve it by endeavoring to get unanimity on theory. The danger of the enactment of compulsory insurance in New York is too great for us to delay taking positive action. So long as the action we take is well considered and beneficial to the public we should not shrink from it solely because universal agreement is lacking as to the exact course to follow.

Another guide post which we should have in mind is the question of conflict of interest. You will recall that this issue has been raised both in connection with the Voluntary Plan and the various unsatisfied judgment endorsements which are coming into more common use. Those critics who seize upon this issue point out that the insurer actually would end up defending the financially irresponsible third party against its own insured.

This problem should be viewed in the light of its size. At the present time my company insures some 10% of the motor vehicles registered in New York State. Figures released by the Bureau of Motor Vehicles show that there are approximately 25,000 accidents annually for which security is not deposited. If we can assume an even distribution of accident involvements by uninsured motorists, I would assume that 10% of these cases would involve individuals insured by my company. Our claim figures show that of these 2,500 claims, less than 1%, or approximately 20, would go to trial. I cannot believe that 20 cases for my company, or 200 cases for the whole automobile insurance business in the State of New York presents a problem of major importance. Neither is it a problem incapable of solution. At the present time an informal industry committee is studying it. They have shown great ingenuity and imagination, and I am very hopeful that from their deliberations will emerge a solution acceptable to all.

My talk was to discuss the practical problems created by the uninsured motorist. The ones I have touched upon in my opinion are the most important. Each of you

must have others in mind. Undoubtedly they too are necessary of solution. However great the difficulties, all of these questions must be resolved—and soon.

I believe firmly that we can do so. I believe we have the necessary will, intelligence and technical skill. I am reasonably sure, if we move quickly, that we will have the time.

While we are engaged in wrestling with these problems let us be under no illusion about what is at issue. What is at stake is not a desire to preserve the status quo. Surely we have demonstrated that beyond any possibility of doubt by our actions over the past two years in devising new plans, programs and coverages. What is at issue is the future of the insured motorist—his right to buy under a free enterprise system a competitive product at a competitive price from any one of his choice of competing companies. Let us not permit the destruction of this right through the agency of compulsory insurance. (Applause)

MODERATOR DEMPSEY: Of course, it must be to the public mind quite anomaly to think that the insurance industry, and many responsible executives in that industry, could be opposed to compulsory insurance on the face of it. It would seem that the broader the base, the better for the industry. But you are hearing different views.

I am going to ask you, if you have any questions, if you would be so kind as to write them and hand them to me, I will ask these different gentlemen who have taken up various aspects of the Forum to answer the questions.

Next, on the legalistic side, the question of policy defenses under existing laws, and defense techniques. In that connection, I want you to know that General Claims Counsel for the Glens Falls Indemnity Company has made research in every one of the forty-eight states in this country on the subject. It will not be possible for him, of course, in the brief time allotted to him, to go into the different defenses in the entire area of the country, but he will discuss the highlights of the subject.

I am happy to present to you at this time Mr. Allan P. Gowan, of the Glens Falls Indemnity Company. (Applause)

Analysis of Policy Defenses Under Financial Responsibility Laws

Allan P. Gowan
Glens Falls, New York

The tragic automobile accident record for 1953 shows 38,000 persons killed and about two million injured. As reprehensible and awful as this record may be, it is safe to say it would have been even worse if the Financial Responsibility Laws had not been enacted and it would have been much better if they had been more rigidly enforced—not that enforcement has been generally lax. Likewise, when properly administered and tied in with the enforcement of other traffic laws, these new Safety Responsibility Laws can and do provide the incentive for the carrying of liability insurance, a feature credited with raising the percentage of insured automobiles to more than 96% in at least one state; 1953 did not feel the full impact of these great incentives in many important states whose statutes were just going into effect. However, one fact is certain with respect to this terrible toll of life and limb and that is that liability insurance played an important role in all but a very few of the damage claims which must have followed. Now, considering those myriads of insurance claims, contrast the mere handful of contested insurance cases involving financial responsibility problems, revealed by this review of the court decisions. Surely this speaks volumes for the job being done by private insurance.

Let us consider a few typical "F. R. questions" from the recent cases. These questions are coming up nearly every week in most offices; have you had many? If not, you probably soon will.

1. *Misrepresentation Cases*

In a familiar case, the applicant for a policy represents that neither he nor any driver of a car owned by him has ever been

involved in an accident and that no company has ever cancelled his insurance. After your company has issued a policy on the strength of these declarations, the insured has a serious accident. During the subsequent investigation the company learns that this insured has had other accidents and five companies have cancelled his insurance. Can you get any relief for your client?

Suppose there has been a misrepresentation as to the "sole-ownership" of the car in a case where the true owner is the seventeen-year-old son of the named insured; or the insured represented that he was 64 when, after he has had the inevitable crackup, it was discovered that he was at least 75 years of age. Can you get these contracts rescinded or cancelled for fraud or material misrepresentation?

Whether you can or not depends on what state you are in or whether these policyholders have become subject to the strict sanctions of the "F. R. Laws." These, of course, are "misrepresentation cases." Isn't it a mighty unpleasant experience to advise your client that the law affords no relief in such cases and the company had better settle?

2. *Extent of Coverage*

There are also some interesting questions concerned with the scope or extent of coverage but we shall have time to consider only a few examples taken from recent cases. Whenever agency or respondeat superior cannot be established, it is highly important to know whether the policy can be extended to cover the operator or permissive user. This becomes most important in states which have no "owner's statutes" or vicarious liability laws. These are called "statutory omnibus clause" cases. We are not concerned here with any disputes about "permissive use" which is outside the scope of our discussion.

Then there are *"Assault* and *Battery"* cases; *"Use-of-Other-Automobile"* cases; *"Other Insurance Clause"* or *"Excess Clause"* decisions which we shall consider in the light of some recent decisions.

3. *Policy Breach Cases*

Next, of course, come a few cases which involve the failure of the insured to comply with conditions of forfeiture or conditions subsequent such as delayed notice of accident or suit, or both, and deliberate lack of cooperation.

The Question—Third Party Protection?

To avoid any confusion in all of these cases, since almost any of these suggested defenses would be good as against our own insureds (whether owner or operator or both), our only concern shall be whether or not injured third persons can recover under our policies, within the limits and terms of the Financial Responsibility Laws.

SR-22 Cases

Our first inquiry concerns an underwriting question: "Was the policy certified to the Commissioner or other administrator of the Financial Responsibility Law?" The certificate issued by the insurance company as "proof of financial responsibility" is generally called an SR-22. We shall call such policies SR-22 policies or "SR-22 Cases." The "old type" laws (some of which have been on the statute books for upwards of 25 years) required "proof of financial responsibility" for future accidents following certain convictions and unsatisfied judgments. The new type laws which we now have in all states (and some Canadian provinces), except Kansas, New Mexico and South Dakota, retain these features but, in addition, require security following an accident. It should be noted that future "proof," as well as security, is required after accident under a few of these new type laws. The "Security-For-Past Accident" feature of the new Safety Responsibility Laws, which we are going to discuss later, have or should have no particular bearing on our SR-22 cases—except by way of comparison."

When an SR-22 policy is written, the insured comes in and admits that he has received a notice that his driving privileges are suspended until he presents proof of financial responsibility. For all practical purposes he is off the roads unless he can get an insurance policy to meet the requirements of the Financial Responsibility Law. Now some companies, probably most of them, have done a commendable job of voluntarily accepting such risk' —even though probably no underwriter particularly cares to write them—regardless of the premium which he can collect.

Financial Responsibility Law Premium Surcharges

The rate regulations in all states permit the companies to surcharge the insured for

all SR-22 policies. The extra cost to the policyholder should be a strong inducement to safe and sane driving as well as a further penalty for the offense which brought him under the Act in the first place. The reason for the surcharge is of course the waiver by the company of normal policy rights and defenses, subject to the "absolute liability" requirements of the Financial Responsibility Law. The amount of the surcharge depends on the nature of the offense committed by the applicant. It can be 50%, 25% or 5% of the basic rate. Only a small percentage pay the highest surcharges.[8] This can last for about three years in most states.

Assigned Risk Surcharge

As a further deterrent and warning to our reckless driving applicant, he may have found that no company will take him on voluntarily—at any manual rate. As an accommodation to such unfortunate motorists, the legislatures in some states or the companies voluntarily in others have set up the Assigned Risk Plans. Even these—fortunately for the safety of you and me and our families—do not have to accept just every criminal or illicit operator who applies to the plan. Here again our reckless friends have to pay once more for the privilege of getting back on the highway. The Assigned Risk Plan allows a surcharge of another 25% (in most states) of the already surcharged rate for an SR-22 case.[9] For example—which I think demonstrates more clearly than anything else (1) the great safety factor in the Financial Responsibility Laws if properly enforced, as well as (2) the distinction which must be understood between a "required" policy and a "voluntary" policy dispute—let us say the basic rate for a voluntary policy is $60 (to take an average territory). Then our friend who has been assigned to us for an SR-22 policy at *maximum* surcharges would pay $112.50 per year for three years for his insurance (if the basic rate were $80 for standard limits, his rate would be $150).

SR-22 v. Voluntary Insurance

The companies, as we have said, collect these surcharged premiums in consideration of and fully realizing that an SR-22 policy is issued for the protection of the public and liability is absolute within the statutory bounds. Their record is excellent with regard to contested cases. They expect to and do settle out of court practically all claims. They dispute mighty few. This policy pays off in good public relations; it will have to continue if the companies wish to avoid compulsory insurance and "compensation" plans. But if plaintiffs' counsel and the courts become confused on these points and try to apply the rule of absolute liability to a policy which has been issued at basic rates, it is submitted that defense counsel and their clients, the insurance companies, should protest vigorously. That defense counsel are carefully selecting their cases is established by this analysis of the decisions. It shows a surprisingly large percentage or a definite trend in favor of the companies.

Watch for "Hardship Cases"

However, at this point let me suggest that before we appeal a close or "hardship" case, we should stop and consider our chances of success as against our making some "bad law." One erroneous decision may have costly and far-reaching effects on thousands of other claims and suits. This is by way of "a word to the wise"—to simply consider the consequences of an adverse ruling as against the value of the individual case.

Discrimination Against Careful Drivers

Nevertheless our duty is clear, as "watchdogs of the treasury," to see that "absolute liability" is not imposed in the case of *voluntary* policies, as may be quite proper for the protection of the public in SR-22 cases. Here is our "social porblem": Should the average safe driver be subjected to higher premiums, just because a sympathetic court —a liberal court, if you prefer—wishes to see a "hardship case" compensated? Isn't this a form of discrimination against the average good driver and his insurer? On the other hand the authorities agree that, within statutory bounds, those who have demonstrated their unsafe driving tendencies should pay more for insurance. Such insurance policies may well be administered liberally for the benefit of these innocent victims—and from all observations they are.

Read the Act

The second point to check, after learning that the policy is on record with the administrator of the Financial Responsibility Law and is therefore an SR-22 policy,

is the statute itself. Read the requirements for "proof" and for "the motor vehicle liability policy" itself which unfortunately are not uniform. The general requirement which will be read into the policy is that nothing that the insured can do or fail to do will affect the rights of injured parties, which become absolute as of the accident time.

As an example of the improtance of a close study of the Act itself, it may be noted that Colorado permits the insurer to plead the defenses of lack of notice of suit with no opportunity to defend the insured, also collusion. (1935 Colorado Statute Anno. §57 (b)1). This is in accord with the rules in the *Gergely* case in Ohio (see Appendix Decisions); but as far as I know it is peculiar to the Colorado law. A number of states have made no specific reference to absolute liability, but require certain statutory provisions having similar effects: California, Connecticut, Florida, Georgia, Idaho, South Dakota and West Virginia.

A few of the F.R. Laws may not have a provision for the statutory ominbus clause. Some laws exclude coverage for claims by the named insured against an additional insured—contrary to the standard "Definition of Insured" clause of the policy. If administrative approval of the policy form is required—this means the "certified policy" and not the voluntary policy in most states—any unauthorized restrictions would be void. (For states see Chart V, Seven Chart Anal., A.C.S.C. appended.)

SR-22 Policy Decisions

In most cases the simple answer to the questions submitted—if the policy is required—will be "no"—the company has no defenses under an SR-22 policy.

(1) *Misrepresentation Cases Under SR-22's*—as previously defined, these are few and far between. No company has appealed a case like this—at least in recent years.

In New Jersey under the old law, liability was held to be absolute without a filing or certification and even though the commissioner or administrator had neither revoked the insured's license nor called for "proof." We have observed why such rulings are an "unreasonable and unconscionable" burden on the insurers of voluntary policies which are written at standard rates and in reliance upon the good faith of the insured. The rule in the now celebrated case of *Atlantic Casualty Insurance Co. v. Bingham* should be overruled. It is much clearer under the new law that certified policies are filed as "proof" and "voluntary" policies are filed as "security." In that case the insured had deliberately misrepresented that he had had no accidents within the past 12 months and that no policy of his had been cancelled. After the accident the company learned that as a matter of fact the insured had had two accidents involving about $500 and another company had cancelled his insurance. The insurer sued to cancel the policy *ab initio* for these misrepresentations. *Held:* the insurers complaint showed on its face that the insured was of a class subject to the requirements for "proof." Under New Jersey cases, it was immaterial that the Director had not called for proof. The unreasonableness of this sort of decision is that if the insurer had known about these prior accidents and therefore that the applicant was subject to the act, it was testified that it would not have written the policy. Can anything more unfair, unreasonable or unconscionable be found in jurisprudence? Talk about putting a premium on fraud and deceit—this is confiscation!

(2) *Extent of Coverage Cases Under SR-22's*—Since the language of the F.R. Statutes is not always clear, some judicial interpretations have been (and probably will be) necessary to determine the breadth and limits of the statutory policy. Several recent cases have turned upon the requirements for certified "Owners Policies" or "Operator's Policies." It should be kept in mind, that the statutes generally provide that persons who are subject to the requirements for "proof" may obtain, in the alternative, either "owner's" or "operator's" coverage. Since the *"operators policy"* need not cover—and does not cover—the use of vehicles *owned* by the named insured or a member of his household, it is written at a lower rate than an "owner's policy." Probably this reduction of between 30% and 70% from the rate for a certified owner's policy accounts for the choice of an operator's policy by persons who do have a car in the family* and really should have taken the owner's coverage. For example, in both North Carolina's *Russell* and New Hampshire's *Employers* cases, the *operator's policy* was held not to be absolute

*Which is not insured and so subject to endorsement for this operator.

with respect to the liability of a person driving a car owned by the policyholder or a member of his family. (Contra in Penna., *Montgomery v. Keystone.*)

Limits.—Likewise the best rule would favor holding the operator's insurer for the full amount of its $5,000 limit where the owner's insurer had already paid $5,000 on a $10,000 judgment. Even though $5,000 would satisfy a judgment "for the purposes of the act," it would not be deemed a satisfaction under the (SR-22'd) operator's policy. (See *Old Underwriters,* Indiana.)

Owner's Policies—In New Hampshire the Use-of-Other-Automobile coverage would not be extended to cover the operation of a truck owned by the insured's wife for hauling sand. That would be equally contrary to both the Act's and the standard policy's exclusions of vehicles owned by a member of the household or used commercially.**

Recently a company had filed an SR-22 on a standard owner's policy. This policyholder, leaving his own—the declared and described car safely at home, took his employer's truck for a joy ride on a Saturday evening—and killed four people. The company which had filed the SR-22 for this insured received no notice of either the accident or the suits, until long after its insured had been cast in judgments. The judgment creditors are now suing this company, the owner's-policy-insurer, alleging absolute liability. The question here is whether a certified owner's policy covers—absolutely and without policy defenses—the operation of any other automobile not described nor designated specifically therein? It does not.

Should the "use of other car" provisions of an operator's policy (cf. the standard policy's) be read into an owner's policy? The North Carolina Supreme Court's decision in *Russell v. Lumbermens* held that they should not, in spite of the well intended objectives of the Act and its required liberal construction. Conversely, an SR-22 on an owner's policy is not absolute for the use of any other car except the described-owner car. (*Howell v. Travelers,* N. C. Fed., cf. *Byrd,* Va. Fed. and contra, *Conwell,* N. H.).

Other Insurance.—A Pennsylvania case held that where the insured was driving another car, a certified owner's policy was absolute and provided primary coverage (not excess as the standard "other insurance" condition says) as against a non-standard policy which insured this operator but only if he had not other insurance available. (*Polonitz,* Penna.) In a similar situation the Maryland Act allowed the certified policy to be prorated with any other insurance available (*Celina* case, Md.)

In a Vermont (Fed.) case, the Second Circuit Court of Appeals, held that where the owner's and the operator's policies were both certified, the owner's was primary and absolute—also the owner's insurer could not invoke a statutory clause to recoup from the operator's insurer; it was not an injured third party beneficiary under the Act, (*Violana,* Vt.).

Interest on Judgments.—Does the Provision of most of the F. R. laws that the certified or "proof" policy shall be subject to certain limits e.g. $5,000 for one person "exclusive of *interest* and costs" mean that the interest shall be computed on the statutory limits only—or may it be computed on the actual limits of the judgment? In a questionably liberal construction of the Virginia law, the Fourth Federal Circuit Court held that the interest should be computed on the aggregate judgments of $47,000, at least from the time of entry until the tender by the insurer of the statutory maximum limit of $10,000. The court ruled that the provision of the statute (and the standard policy) for the payment of interest by the insurer was in the nature of a penalty for its failure to pay the statutory limits promptly. It would seem clear however that the legislature never intended that the absolute liability of the statute should be extended beyond an allowance for interest on the statutory limits. The court overlooked the well settled rule that the "absolute" provisions do not apply to higher policy limits nor to any other policy benefits which are more liberal than statutory requirements. It unreasonably applied the more liberal standard policy benefits to the statutory interest requirement (*Maryland v. Wilkerson,* Va., Fed.).

(3) *Policy Breach Cases Under SR-22's.*—It is a highly significant development that no recent court decisions were found.

Safety Responsibility or Security Laws

Appended is a digest of all cases by states (separated as "for" or "against" the

** (*Hardware, etc. v. Tobyne,* N.H.)

insurer) that could be found which pertain to F.R. Laws or similar legislation—both SR-22 and SR-21 cases.

Appended also will be found the "Seven Chart Analysis of the Automobile Liability Security Laws of the United States and Canada" revised to June 1, 1954, a publication of the Association of Casualty and Surety Companies to which organization and its Law Department we are much indebted for this privilege. These charts cover the principal features of all the F. R. Laws.

As we have observed, the "new type" of security—for-past-accident law is now in effect or soon will be in practically all jurisdictions (goes into effect in D. of C. on March 22, 1955—not yet passed in Kansas, New Mexico and South Dakota). Remember that first (about 28 years ago in Connecticut) came the old type law calling for "proof" for future accidents or a certified policy—mandatory after certain events, unsatisfied judgments or criminal offences; followed by the addition of the "security" provisions (17 years ago in New Hampshire) which apply to certain accidents that have happened. By all the statutes these do *not* apply if the motorist, who has just had an accident, can present evidence that he was already insured; that he already carried or there existed an automobile liability policy on the vehicle that he was driving. "Proof" is mandatory; a "security policy" is a "voluntary policy," written at standard rates. Here is the inducement to get insured. It is *not* intended that such a policy shall be absolute; on the contrary the legislature, the insurance company and the insured have all agreed that it shall not. They want people to buy—the companies are thus importuned to sell.

SR-21 Cases

These laws call for a certificate which is commonly called the "Form SR-21." When properly filed and ratified this notifies the administrator that there was "in effect" a policy of insurance *"with respect to the vehicle involved."* This has been carefully phrased so that the insurance company *admits no coverage for the accident;* it is not contemplated that *policy defenses are waived.* No reservation of rights by the company would seem necessary.

The rest of this discussion will be limited to SR-21 cases—voluntary coverage cases. Most of the "voluntary policy" or "SR-21" decisions are very new. There are only a few of them. All of the older cases are concerned either with "Required or SR-22" policies or else voluntary policies, invoking no provisions for "security" for past accident.

From now on all cases (except in those three "old law" states) will be either SR-22 or SR-21 cases. Once the distinction is widely understood, the already insignificant number of litigated *coverage cases* should dwindle—in spite of the yearly increase in registered owners and operators and policies in force.

Understand and Read the Policy—Standard Provisions

The national standard automobile liability policy is set forth in 1 ABA Insurance Policy Annotations, Supplement for 1950. Policy Copies are available everywhere. Under SR-22 policies *the statute* was paramount; under SR-21 cases *the policy provisions* should govern—but the F. R. Law (and its construction by the courts) is of equal importance. One of the little known or publicized but extremely beneficial effects of the Security Type, Safety Responsibility Laws has been the broadening of standard policy provisions to meet—completely and liberally—any requirements of these statutes, e.g., to mention some of the expansions:

1. Automatic Coverage for Newly Acquired or Substitute Automobiles.
2. Use-of-other-Automobile and Trailer Coverages.
3. Elimination of the Exclusion of claims by a "named insured" against an "additional insured."
4. "Condition 6" or the "F. R. Conformity Clause" of the policy—e.g. New Hampshire and New Jersey cases.
5. Inclusion of spouses and any person (regardless of age or legal license to drive) or organization responsible for the use of the automobile with permission.
6. Named Non-Owner (operator's) Policies which now include the spouse.
7. Blanket Omnibus or Additional Interest coverage in Garage Liability Policies.
8. Wider territorial coverage to all the United States and Canada.

9. Occasional use for non-business or "other business" use in truck (commercial vehicle policies).
10. Expansion of limits pursuant to statutory minimum (now, about 8 states having increased to 10/20/5 and Connecticut has 20/20/1).

This trend is bound to continue even more liberally. These new features require study in any SR-21 case—where defenses are still good. Such innovations have reduced insurance litigation to a mere trickle of cases in proportion to the number of policies ($4,000,000,000 automobile premiums written in 1953). May this trend continue—or is this the proper forum for such a prayer?

Contrast these great increases in protection to the public with the narrow coverages afforded by the Massachusetts Compulsory Liability Policy.

Effect of SR-21 Filings

What is the effect on our policy defenses of the filing of Form SR-21?[4] Let us consider a few recent cases under each of our favorite categories: (1) Misrepresentation Cases; (2) Extent of Coverage; and (3) Policy Breach Cases.

(1) *Misrepresentation Cases Under SR-21's*

A learned Federal District Court Judge in New Mexico—construing the Texas F. R. Law—held recently that the absolute liability provisions did not apply to an SR-21 case unless the policy had been certified and furnished as "proof" prior to the accident. He correctly held that where the insured had misrepresented having had no previous accidents nor cancellations and he really had had other accidents and five (5) companies had cancelled him off, his policy was void even as to third persons, holding judgments against him. This case is significant and its ruling if appealed should be sustained.

In both the *Ford* (Tex.) and *Fox* (Iowa) cases the learned Federal Judges laid down a good sound rule: In the absence of either a clear statutory mandate or an express contractual provision, the courts have no basis whatsoever for a finding that injured third persons have any greater rights than those insured under the policy. To hold otherwise would be unconscionable and would promote fraud.

The Texas Act, like the Acts of Colorada, Florida (which has no absolute provisions), Indiana, Maine, Minnesota, New Hampshire and Oregon, is not as clear as the other states (e.g. New York, Vermont and Virginia) in specifying a policy which is sufficient for "security" and one which will be adequate (called "a motor vehicle liability policy") for "proof." The laws of those eight listed states thus depart from the Model Financial Responsibility Law which emphasizes this distinction. Attorneys in those states which are not so clear should stress the evolution of these F. R. Laws, as we have pointed out: first they had the "proof" requirements, superimposed upon which they now have the separate "security" type provisions.

Another classic opinion was handed down several years ago in Iowa by a Federal District Court where the main point at issue was the filing of Form SR-21. The Commissioner intervened but did not appeal the decision which held that the phrase "a motor vehicle liability policy" was used in the Mninesota law as a "term of art" and that by its filing the company was not estopped and waived nothing; the conformity clause (Condition 6) did not apply to voluntary policies as other courts notably New Hampshire, New Jersey and one case each in Illinois and Colorado have held. (In accord see appendix—Decisions: Texas, Iowa, and Wisconsin; contra, Illinois and Colorado—new Hampshire and New Jersey's are "old law" cases.)

(2) *Extent of Coverage Cases Under SR-21's*

Omnibus Coverage—In the Illinois case of *Landis*, etc. and the Colorado case of *Traders and General* (appendix decisions) it is not stated whether SR-21's were filed. Both of these cases involved garage liability policies at a time when the standard policy did not (as now) provide "blanket additional interest" coverage. The courts in each case invoked Condition 6 (or the F. R. Conformity Clause) to find "absolute liability" or read into the policy the statutory clause requiring coverage for any permissive user. Neither operator was the agent of the garage. Neither policy had been "certified" and so the decisions are questionable. However, the Colorado law's "security" provision (§43 (2) (b) 1) calls for "an automobile liability policy as defined" under the same identical provisions as a

proof policy." A study of the arrangement discloses, however, *that no absolute liability was intended* unless the policy has been "accepted as proof" (§57 (b))—and properly surcharged.

What Law Governs?—The question has arisen[5] whether states having statutory limits of $10,000 and $20,000 may in effect reform a policy of a motorist from another state where the statutory limits are only $5,000 and $10,000 by invoking Condition 4 or the F. R. Conformity Clause. There are apparently no decisions in point. The general rule is that the policy shall be construed by the law of the state where issued (see cases in Connecticut and District of Columbia) but New Hampshire has held that Condition 4, "Conformity Clause" changes this rule. However, this condition of the policy is specifically limited in its application by the words "but in no event in excess of the limits of liability stated in this policy" which should effectively prevent even New Hampshire (or New Jersey) from expanding or reforming the policy as to limits.[6] Possibly we should advise our companies not to file an SR-21 where the effect might be to waive any policy provisions with regard to limits—especially in cases which appear to be serious or close to policy limits.

(3) *Policy Breach Cases Under SR-21's*

The effect of filing an SR-21 on the "conditions of forfeiture" such as notice of accident or suit and cooperation has been considered by only a few courts so far. Typical of these was a recent ruling by Kentucky's court of last resort that failure to forward suit papers and lack of cooperation are good defenses. This follows the correct rule as previously outlined in older Kentucky cases and by the Federal Courts there. (See *Miles,* Ky. also correctly decided cases to the same effect recently in Alabama (*Sharpton*) and Illinois (Fed.) Myers.)

Conclusion

Our approach to this analysis of court decisions has been along practical lines. Possibly it will lead to a more orderly consideration and study of the statutes, policies and decisions under the F. R. Laws. Why not give these new "Security-Safety" type laws a fair chance before rushing into something unknown, like Compulsory Insurance with a whole new set of court decisions? Why not afford the insurers and their legal counsel a reasonable opportunity to demonstrate that these laws will do the best job of protecting us all from financially irresponsible motorists—especially when strictly enforced and intelligently administered? Such enforcement has only begun in many states—possibly in others it has yet to be started. Let us all do what we can in our own states to see that the administration is properly started and carried out—before we even think of Compulsory Insurance or the suggested "compensation type of law" for the benefit of all accident victims.

As someone has said, it cannot be denied that by their own provisions, as well as by interpretation in the courts, the F. R. Laws represent a tremendous amount of protection to the general public. This protection is unquestionably far superior to anything that we would have under any form of Compulsory Insurance. With only a few outstanding exceptions, these laws have been construed fairly and reasonably to all concerned. One thing is certain: no law and no system will produce perfect results.

What is desired? Isn't it a maximum of inducement for safety together with a reasonable freedom to contract, encouraging all to insure, and this to be administered strictly through private enterprise *at a minimum of cost* to the motoring public?

NOTE: 1. Full text of paper, a summary of which was delivered July 9, 1954 at the Annual Meeting of the International Association of Insurance Counsel in connection with a panel discussion of "*Problems Created by Financially Irresponsible Motorists*" at While Sulphur Springs, West Virginia.

2. Please note Addenda I *Footnotes;* II *Authorities and References; and* III *Appendix—Decisions by States;* IV *Seven Chart Analysis of the Automobile Liability Security Laws of the United States and Canada*—Association of Casualty and Surety Companies.

I
FOOTNOTES

[1]1953 Report of Motor Vehicle Bureau of New York State showed 65,856 SR-22's on file; 1953 Report of New York Assigned Risk Plan showed only 26,485 SR-22 cases handled out of 116,094 policies written (21%). Many more than half were written *voluntarily* outside of the Plan.

[2]Out of 177 Assigned Risk cases accepted by the Glens Falls Insurance Company recently 38 (21+%) were SR-22 cases; of these only 6 were 50% and the rest (32) were 5% cases under manual rules for certified policies.

[3]Of the 38 SR-22 cases, the rules of the Plan required surcharges as follows: 32 paid 25%, 1 paid

15% and 5 paid no A.R.P. surcharge (0%).

Credit to Mr. Edward Barry, Jr. (see Authorities & References No. 8).

This question considered by Mr. Edward B. Lang, Jr. (see Authorities and References No. 9). He holds, of course, that an SR-22 policy would be reformed up to the required limits as of the date of issue.

Herein called "F. R. Conformity Clause." Condition 4 National Standard Automobile Liability Policy reads:

> "Financial Responsibility Laws, Coverages A and B. Such insurance as is afforded by this policy for bodily injury liability or property damage liability shall comply with the provisions of the motor vehicle financial responsibility law of any state or province *which shall be applicable* with respect to any such liability arising out of the ownership, maintenance or use of the automobile during the policy period, to the extent of the coverage and limits of liability *required by such law,* but in no event in excess of the limits of liability stated in this policy. The insured agrees to reimburse the company for any payment made by the company which it would not have been obligated to make under the terms of this policy except for the agreement contained in this paragraph."

EDITOR'S NOTE: Emphasis added to show that clause applies only *when applicable* and it is not applicable unless the policy was *required.* Incidentally, many feel that this intent could be expressed more clearly and probably will be when the policy is next revised.

II
Authorities and References

(1) Insurance Policy Annotations A.B.A. 94, 95 and Supp. (1950).

(2) Billings "Impact of Financial Responsibility Laws on Automobile Liability Insurance, Insurance Law Journal, Dec. 1949, p. 871, also p. 869.

(3) "Automobile Liability Security Laws," Association of Casualty and Surety Companies, "Decisions and Opinions," revised annually—also Seven Chart Analysis of F. R. Laws.

(4) 18 A.L.R. 2d 461; 1 A.L.R. 2d 822; 31 A.L.R. 2d 645 (Compulsory Insurance).

(5) Insurance Counsel Journal, Annual Reports of Financial Responsibility Laws Committees, July 1950, October 1951, July 1952 and October 1953 p. 277.

(6) 7 Appleman, Insurance Law and Practice, §§4295 to 4297 and 8 Appleman, Insurance Law and Practice, §§4811 to 4838.

(7) Edward F. Earle "The Motor Vehicle Liability Policy under Financial Responsibility Laws" Proceedings Insurance Law Section A.B.A. 1953 p. 29 and id. Insurance Law Journal p. 678.

(8) Edward Barry, Jr., Claims Counsel, State Farm Mutual Automobile Insurance Co., Bloomington, Illinois "Policy Defenses under SR-21 Filings" May 1954 meeting of Mutual Insurance Adjusters in Chicago. Editor's Note: With permission of Mr. Barry several unreported decisions furnished by him have been cited and we are deeply indebted to him for his clarification and research, some of which has been incorporated in this paper.

(9) Howard B. Lang, Jr., Chief Claims Attorney, M.F.A. Mutual Insurance Company, Columbia, Missouri "Financial Responsibility Laws Under the Conditions of the Automobile Policy," delivered at the same meeting, which has also been most helpful.

III
APPENDIX
Decisions by States
(As of June 1st, 1954)

Cases arranged by states—confined to policy defenses under Automobile Financial Responsibility Laws—classified as to those decisions which were "for" the insurer and those "against." Prepared as of June 1, 1954.

Alabama (For)

Defense of lack of cooperation—variations in statements of insured. In the case of a voluntary policy, liability is not absolute. *State Farm Mutual Auto. Ins. Co. v. Sharpton et al,* 259 Ala. 386, 66 So. 2d 915, 2 CCH Auto Cases 2d 826 (Aug. 6, 1953).

Alabama (Against)

No. F. R. cases found.

Arkansas (For)

(Taxicab Statute.) Failure of notice of accident and suit held good defense against judgment creditors where law required standard policy "in customary use." *Warren v. Commercial Standard Ins. Co.* (1951) 219 Ark. 744, 244 S.W. 2d 488.

Arkansas (Against)

No F. R. cases found.

California (For)

(Fed.)—Liability is not absolute under a "Financial Responsibility Endorsement" except as to persons subject to the requirement of "proof." *State Compensation Insurance Fund v. Bankers Indemnity Insurance Co.,* 106 F. 2d 368 (CCA 9th, 1939). The condition of the policy conforming it to applicable F. R. Laws does not by itself render the policy absolute. Id. Where policy was not required, held: unnecessary

to decide whether statutory policy provisions applied to the drive-other-car coverage's limitation of cars "furnished for the regular use to the named insured or a member of his household" (but court infers statute not applicable. *Northwest Cas. Co. v. Legg,* 91 Cal. App. 2d 19, 204 P. 2d 106 (1949).

California (Against)

No. F. R. cases found.

Colorado (For)

No F. R. Cases found.

Colorado (Against)

(Another erroneous (?) "other insurance" case.) The operator was driving a garage-owned car, insured by a voluntary garage policy (which did not have omnibus clause—old form policy). Operator had "drive-other-car" coverage (likewise voluntary) on his own car which was excess over any other policy available to him. Held: the garage liability policy's conformity clause should be invoked to provide primary coverage for this operator and it should pay the $3,000 judgment against him. The omnibus coverage for the operator was compulsory under the act and his own policy should pay nothing in this case. *Traders and General Ins. Co. v. Pioneer Mutual Comp. Co.,* 127 Colo. 516, 258 P. 2d 776, 2 Auto Cases 2d 1022 (1953).

Editor's Note: It is submitted that court failed to distinguish between statutory required *"motor vehicle liability* policy" and voluntary policy. Cf. *Landis v. New Amsterdam,* cited therein, Ill., infra.

Connecticut (For)

Construing a policy issued under the Massachusetts Compulsory Insurance Law, named insured could not recover from his own company the amount of his judgment against his operator. *Cain v. American Policyholders Insurance Co.,* 120 Conn. 645, 183 A. 403 (1936).

Connecticut (Against)

No F. R. cases found.

District of Columbia (For)

Since it did not appear that the F. R. Act of the District applied, claim for death of named insured was excluded. *Hepburn v. Penna. Indemnity Co.,* 109 F. 2d 833 (Ct. App. for D. C., (1939), 5 Auto Cases 1060.)

District of Columbia (Against)

(Not a Financial Responsibility Law case). A "taxicab insurance law" required a bond or policy covering "operator or renter of cabs"—certificate of absolute liability filed—*held:* even though accident occurred outside of the District of Columbia—and such operation was expressly excluded by the rental agreement and so there was no permission under the omnibus clause—absolute liability since operation was by license of the District of Columbia. *Thompson v. Amalgamated Cas. Ins. Co., Inc.,* 207 F. 2d 214 (CCA 4, 1953). See strong dissent by Miller, Circ. Judge. Not insurance cases: *Hiscox v. Jackson,* 127 F. 2d 160 (U.S.C.A. for D. C., 1942) concerning presumption of agency and consent; *Champ v. Atkins,* 128 F. 2d 60 (U.S.C.A. for D. C., 1942) joint adventures in taxi business.

Georgia (For)

(Common Carrier Policy) Cause of action on contract and one in tort cannot be joined; the act did not authorize joinder of insurer with the insured. *Russell v. Burroughs,* 183 Ga. 361, 188 S. E. 451 (1936).

Georgia (Against)

No F. R. cases found.

Illinois (For)

(Fed.) F. R. Law conformity clause does not necessarily render the policy absolute—and where the policy was not certified prior to the accident, an exclusion of willful, wanton or intentional acts was valid under the Financial Responsibility Act. *Hill v. Standard Mutual Casualty Co.,* (CCA 7, 1940), 110 F. 2d 1001.

(Fed.)—Failure of insured to notify insurer of newly acquired car, delayed notice of accident (35 days) and lack of cooperation were valid defenses where policy was not required. *Hawkeye-Security Insurance Co. v. Myers et al.* 210 F. 2d 890, 3 Auto Cases 2d 1222 (CCA 7, 1954), distinguishing the New Hampshire Statute.

Illinois (Against)

An example of the failure to apply the distinction between a "required" and a "standard" or "voluntary" policy, probably caused by the lack of clarity in the the statute which refers to "a motor vehicle liability or operator's policy" as "proof" and "a liability policy" as "security," (Stat. 1951 Chapt. 75½, §42-11 vs. §42-12).

Where insurer had certified its policy under "Illinois Truck Act" (but not under §42-11 of the Financial Responsibility Law), the compulsory omnibus clause of that law was *held* to cover operator, under a garage policy which did not afford omnibus coverage, (to the extent of the statutory limits only). *Landis, for Use of Talley v. New Amsterdam Casualty Co.*, 107 N. E. 2d 187 (App. Ct., 4th Dist. of Illinois, 1952). F. R. "conformity clause" of policy here applied against the insurer. Cf. *Traders v. Pioneer*, Colo., supra, which follows this case.

For another "Truck Act" case where liability was held absolute see *Illinois Casualty Co. v. Krol*, (1944) 324 Ill. App. 478, 58 N. E. 2d 473 (driver under age and no license) which refers to "Taxi Law" as not being pertinent. Held: where insurer is compelled to cover the loss by statute, it may settle and recoup from insured, having the burden of establishing the reasonableness of both liability and damages equal to amount paid.

Editor's Note: The decision in the *Krol* case was undoubtedly correct while the *Landis* result is to be criticized: The distinction between the cases turns on the requirements of §16 of the (old) "Truck Act" (cf. §17 of new "Illinois Motor Carrier of Property Act" effective January 1, 1954) which requires no coverage for the operator (permissive user) but simply calls for indemnity "for said carrier for *its* liability." Clearly there existed no statutory basis for imposing noncontractual obligation in the Landis case since (a) the Financial Responsibility Law did not apply to either the owner or the operator and (b) The Truck Act applied only to the owner's liability (and still does).

Indiana (For)

The policy was not required. However, the Act did not call for coverage for operator. *Shadow v. Standard Accident Insurance Co.*, 111 Ind. App. 19, 39 N. E. 2d 493, 13 Auto Cases 906 (1942). Cf. *Spicklemeier v. Mastin Co.*, 107 Ind. App. 350, 24 N. E. 2d 797 (1940) Exclusion of willful and wanton acts upheld in Guest Law case. (Policy not required.) Conformity clause not applicable. *Hill v. Standard Mutual Casualty Co.*, 110 F. 2d 1001 (CCA 7, 1940).

Indiana (Against)

"Other Insurance." The Act cannot be used to escape liability. Operator's policy was "required" and certificated (but not standard). Insurer had paid its limit of $5,000 of $10,000 judgment. Held: operator's insurer pays $5,000 (plus expenses and costs), the excess over owner's policy limits which were adequate "for the purposes of the act" only.—*Old Underwriters Inc. v. Himsel et al.*, ___ Ind. App. ___, 116 N. E. 2d 122, 3 Auto Cases 2d 930 (1953). Cf. *Farm Bureau v. Violano*, (Fed.) Vt. below.

Iowa (For)

(Fed.)—After SR-21 filed, insurer discovered misrepresentation of previous cancellation and revocation of license, "The words 'motor vehicle liability policy' are used in the Act as a term of art, having reference only to policies certified as proof * * *." Filing of SR-21 "Notice of Policy in Effect" held not a "Certificate of Proof" and insurer could plead policy was void ab initio for fraud. *Hoosier Casualty Co. of Indiana v. Fox et al.*, (N. D. Iowa 1952) 102 F. Supp. 214, 37 CCH Auto Cases 1010.

No one must furnish proof until told to do so by the officer administering the law. Id. (Commissioner intervened but filed no appeal.) Courts are reluctant to hold that third persons have higher rights than those insured, in the absence of explicit statutory mandate or express contractual provision. Id. Insurer was not estopped by filing SR-21 because the insured and the injured parties were not prejudiced nor misled and suffered no loss thereby. Id.

Iowa (Against)

No F. R. cases found.

Kentucky (For)

Construing the Financial Responsibility Act of 1936—policy condition conforming it to any applicable Financial Responsibility Law does not apply unless policy was required—if not required defenses of "lack of cooperation" and "late notice" were good. *Travelers Insurance Co. v. Boyd*, 312 Ky. 527, 228 S. W. 2d 421, (1949), cited 18 A.L.R. 2d 501n.

(Fed.)—Construing Act of 1946—same. *State Auto Mutual Insurance Co. v. Sinclair*, 96 F. Supp. 267 (W. D. Ky., 1950).

The act (KRS. 187.290 to 187.630) does not make the lessor, in the U-Drive-It business, liable for the torts of lessees, nor make him their insurers, but does require as a requisite to their use of the highways that they give security that the lessees shall respond in damages for the latters' torts. *Reeves, etc. v. Wright & Taylor*, 310 Ky. 470, 220 S. W. 2d 1007 (1949).

Another very recent decision follows the above Kentucky rulings. *Kentucky Farm Bureau Mutual Insurance Co. v. Miles,* ___ Ky. App. ___, ___ S. W. 2d ___, 4 Auto Cases 2d 585 (May 7, 1954).

(Fed.)—Non-cooperation, if shown, was valid defense. (Not clear that policy was required—apparently not—evidence of lack of cooperation insufficient anyway). *Strode v. Commercial Casualty Insurance Co.,* 102 F. Supp. 240 (D. C., Ky., 1952) aff'd. 202 F. 2d 599 CCA 6).

Limits (Taxi Statute). Both statute and certified policy were limited to $5,000 for any one accident regardless of number of persons. This amount should remain paid into the court until all four cases against the insured should have reached final judgment. Citing 46 C.J.S., Insurance Sec. 1191 (9) p. 126 and *Century v. Kofahy,* ___ Conn. ___, 161 A. 101. *Underwriters for Lloyds of London v. Jones,* ___ Ky. App. ___, 261 S. W. 2d 686, 3 Auto Coses 2d 213 (1953).

Kentucky (Against)

No. F. R. cases found.

Maryland (For)

When both policies contain pro rata "other insurance" conditions and the Financial Responsibility Law permits the absolute policy to prorate with other valid and collectible insurance, as many of them do, *held:* the insurer under the absolute policy need not pay more than its pro rata share. *Celina Mutual Casualty Co. v. Citizens Casualty Co.,* 194 Md. 236, 71 A. 2d (1950).

(Fed.)—Old law (Maryland Code 1939, Art. 56 §182 (a) (b) (2)) did not require coverage for operator, where omnibus clause excepted him, in a case where co-employee sued him. *Malisfski v. Indemnity Insurance Co. of N. A.,* 135 F. 2d 910 (CCA 4, 1943).

Editor's Note: Court ignores point that policy evidently was not "required."

Where SR-21 was filed by mistake by agent who thought policy was in force after it had lapsed. Held: Insurer was not estopped even though SR-21 was filed after accident and not recalled within the period allowed before suspension of license. *Collins v. State Farm Mutual Auto Insurance Co.,* (Unreported lower court decision of C. C. Allegany Co. No. 10 January 1953 Term—Maryland).

Maryland (Against)

No F. R. cases found.

Massachusetts (For)

Editor's Note: The cases under the Massachusetts Compulsory Insurance Law are deemed outside the scope of this article and no attempt has been made to collect them. However, a few cases are cited to show that by analogy the "required" coverage in Massachusetts may be likened to the "absolute" coverage in other states.

Carrier's Policy — Owner's Insurer v. Lessee's Insurer. The compulsory policy's insurer may recoup in full from the lessee's insurer which covered the operation of truck under its I.C.C. permit, which operation was excluded by the owner's policy—except for the statutory coverage. *O'Brien v. Ready et al.,* 4 Auto Cases 2d 76, ___ Mass. ___, 118 N. E. 2d 98 (1954).

"Upon the Ways" (or highways under the Compulsory Insurance Act) includes case where injured party was standing seven feet inside property line but part of truck was outside. *Desmarais v. Standard Accident & Insurance Co.,* ___ Mass. ___ 118 N. E. 2d 86 (1954).

"Liability of Others" — Massachusetts Compulsory Policy does not require that "additional insured" shall be covered for judgment obtained against him by the named insured. Latter cannot recover against his insurer. *MacBey v. Hartford Accident & Indemnity Co.,* 197 N. E. 516, 292 Mass. 105, 106 A.L.R. 1248.

The plaintiff's rights in an action on a voluntary policy (after judgment against the insured) do not rise higher than those of the insured. Under the "guest occupant" coverage any defense available to the company against the insured is equally available against the judgment creditor. Lack of cooperation here held good defense. Procedure to avoid waiver approved. (Leading case). *Salonen v. Paanenen,* 320 Mass. 568, 71 N. E. 2d 227, 26 Auto Cases 635 (1947).

Massachusetts (Against)

Numerous cases not considered pertinent.

Michigan (For)

No F. R. cases found.

Michigan (Against)

1. "Taxicab insurance law"—Held: Liability was absolute for any act or omission of named insured (requiring operator to have a taxi license). *Cook v. Checker Mu-*

tual Auto Insurance Co., 337 Mich. 667, 60 N. W. 2d 194 (1953).

2. Where required policy was restricted to driving to and from work—certificate on record (but insured's suspension had been lifted at time of accident) "pleasure use" was covered. It was still on file and restriction was void. *Condition 8* of policy (re Financial Responsibility Law) here invoked. *Judd v. Volmer,* 338 Mich. 581, 61 N. W. 2d 776, 3 Auto Cases 2d 1237 (December 29, 1953).

EDITOR'S NOTE: Case calls for cancellation of "certificate of proof" as soon as possible. Until cancelled, liability continues absolute, even though requirement had been lifted.

Missouri (For)

Temporary Substitute Auto—Trailer Coverage. (Policy not required) Missouri Law does not impose absolute liability where insured is not driving the automobile (tractor-trailer) covered by the policy. *State Farm Mutual Auto Insurance Co. v. Bass,* 192 Tenn. 558, 241 S. W. 2d 568.

Missouri (Against)

No F. R. cases found.

New Hampshire (For)

Where statute permitted a policy exclusion of "injury to an employee while engaged in the insured's business" (often called the "employee exclusion," being common to all F. R. "required" policies and the standard policy. See 1 ABA Ins. Policy Anno. 88) there would be no coverage. *Shelby Mutual Plate Glass & Casualty Co. v. Lynch,* 89 N. H. 510, 2 A. 2d 307 (1938); *U. S. Fidelity & Guaranty Co. v. Snierson,* 91 N. H. 363, 19 A. 2d 412 (1941).

Actions between co-employees may be excluded. *American Employers Ins. Co. v. Worden,* ___ N. H. ___, 29 A. 2d 417 (1942).

Likewise a permitted exclusion concerning use of the vehicle for transporting persons, material or merchandise for a consideration has been upheld. *American Fidelity Co. v. Provencher,* 90 N. H. 16, 3 A. 2d 824 (1939), construing Vermont law —a required policy.

New Hampshire—A required policy certified for a "named operator" would not cover operation of car owned by the insured, such operation being excluded by the act and the policy. *Employers Liability Assurance Corp. v. Roux et al.,* ___ N. H. ___, 100 A. 2d 416, 3 Auto Cases 2d 932 (1953). An "owner's policy," likewise filed as "proof," held: exclusion under the "use-of-other-automobiles" provisions of trucks used commercially or any auto owned by a member of the insured's household applied to truck owned by operator's wife and used to haul sand. *Hardware Mutual Casualty Co. v. Tobyne,* ___ N. H., ___ 100 A. 2d 419, 3 Auto Cases 2d 960 (1953). Purchaser of motor vehicle gets no coverage (and persons injured by him likewise) where company's consent to assignment of the policy is not endorsed. *Employer's Liability Assurance Co. v. Sweat,* 95 N. H. 31, 57 A. 2d 157.

Effect on Policy Issued Elsewhere—Massachusetts Compulsory Auto Liability Policy was not extended by New Hampshire law to cover accident in New Hampshire (not a standard policy) since insurance is not compulsory. *American Fidelity & Casualty Co. v. Sterling Express Co., Inc.,* 91 N. H. 466, 22 A. 2d 327, 137 A.L.R. 651 (1941). Anno 137 A.L.R. 656, *"Statute regarding automobile liability or indemnity insurance of state where injury occurred as applicable to a policy of another state."*

As to standard policy with Financial Responsibility Clause see contra *Hartford Accident & Indemnity Co. v. Wolbarst,* 95 N. H. 40, 57 A. 2d 151 (1948).

New Hampshire (Against)

EDITOR'S NOTE: Apparently this state stands alone, as having the only statute which makes all policies "absolute" by requiring an endorsement so stating, New Hampshire Rev. Laws C-122, §18 (1942).

Policy issued in other state construed. Deliberate acts of insured were thus covered. (Court invoked the condition of the policy—not a "required" policy—applying to Financial Responsibility Laws in favor of injured third parties—not the insured.) *Hartford Accident & Indemnity Co. v. Wolbarst,* 95 N. H. 40, 57 A. 2d 151, 28 Auto Cases 1013 (1948).

Failure to give any notice of accident and the 30 day notice of "newly acquired automobile," even though policy not "required," did not defeat absolute liability up to 5/10 limits of statute. *Farm Bureau Auto Insurance Co. v. Martin,* 84 A. 2d 823, 97 N. H. 196, 29 A.L.R. 2d 811, 37 Auto Cases 798 (1951) (a 3 to 2 decision with a strong dissent favoring insurer).

Of course, a chauffeur's operator's "required" policy covered the operation, off the highway, of tractor used as shovelling device (not otherwise included in the con-

tract). *American Mutual Liability Insurance Co. v. Chaput,* 95 N. H. 208, 60 A. 2d 118 (1948). Since the Financial Responsibility Law required coverage "within the United States and Canada" a policy limited to local accidents would cover a Massachusetts accident. *Continental Insurance Co. v. Charest,* 91 N. H. 378, 20 A. 2d 477 (1941), also holding that aid to the claimants in violation of the cooperation clause will not avail the insurer. Where statute requires coverage for any automobile not owned by insured, fact that insured sold the described car would not avoid policy. *Phoenix Indemnity v. Conwell,* 94 N. H. 146, 47 A. 2d 827 (1946). Contra W. Va. (Fed.) *Campbell v. Aetna Casualty & Surety Co.,* infra.

Under a certified policy, the statutory provision which does not require any notice of the death of the named insured will prevail over a different (standard) policy provision. *Merchants Mutual Casualty Co. v. Egan,* 91 N. H. 368, 20 A. 2d 480 (1941).

Injured was co-employee of operator—engaged in trucking in their employment. Held: Owner's policy covered fellow employee-operator's liability, inspite of (standard) limitation in "definition of insured," up to the statutory 5/10 limits only and inspite of late notice. Operator's policy's "use-of-other auto" coverage (standard) excluded "any automobile while used in the business or occupation of the named insured * * * except a private passenger automobile" because named insured was operating a truck. Statute does not *require* "drive-other-car coverage," if other insurance is available—here held supplied by owner's policy. (Owner's insurer contended this meant voluntary insurance only—held—not so.) *Merchant's Mutual Casualty Co. v. Tuttle et al.,* ____ N. H. ____, 101 A. 2d 262 (1953).

New Jersey (For)

Permissive use—no indication that policy was "required" and so the Financial Responsibility conformity clause did not apply (as in other cases—cited—where insured has had an accident bringing him under the act)—employee had neither initial nor implied permission from usage or custom. *Baback et al. v. Indemnity Insurance Co. of N. A.,* 4 Auto Cases 463 (1939 N. J. Super, Passaic Co.). Where the insured fraudulently concealed a prior accident, had the policy antedated to cover that accident and but for such accident the policy would not have been absolute—it could be cancelled informally. *Continental Casualty Co. v. Lanzisero,* 119 N.J.L. EQ. 166, 181 A. 170 (1935). Cf. *Atlantic v. Bingham,* infra.

The policy condition which conforms the coverage to any applicable Financial Responsibility Law does not apply unless the policy was required. *Farm Bureau Mutual Auto Ins. Co. v. Georgiana,* 14 N. J. Super. 459, 82 A. 2d 217 (1951); *Rosinali v. Metropolitan Casualty Co.,* 117 N.J.L. 490, 189 A. 373 (1937) and *Merchant's Indemnity Corp. v. Peterson,* 113 F. 2d 4 (CCA 3, 1940).

New Jersey (Against)

An absolute policy, void ab initio, because of a warranty or condition precedent affords no protection to injured public. *U. S. Casualty Co. v. Timmerman,* 118 N. J. Eq. 563, 180 A. 629 (1935). Rule seems well established that if insured had brought himself under the Act prior to the accident or was of a class for which proof required, the absolute liability provisions will be applied *in favor of third persons,* precluding *any* policy defenses including misrepresentation in the procurement of the policy, *even though proof not called for by* Commissioner. *Atlantic Casualty Ins. Co. v. Bingham, et al.,* 10 N. J. 460, 92 A. 2d 1 (Nov. 3, 1952). Applies to breach of warranty as to business or occupation *(Ambrose v. Indemnity Insurance Co. of N. A.,* 120 N.J.L. 248, 199 A. 47 (1938) and to sole ownership of the automobile *(Century Indemnity Co. v. Simon,* 77 F. Supp. 221 (N. J. 1948) and *Woloshin v. The Century Indemnity Co.,* 116 N.J.L. 577, 186 A. 44 (1936).

Company may not cancel an absolute policy for non-payment of premium without following strictly the statutory cancellation procedure (usually 10 days notice to state administrator) *Kenney v. Indemnity Insurance Co. of N. A.,* 10 N. J. Misc. 346, 159 A. 686 (1931).

In a "permissive use" case where truck-driver deviated from direct route statutory omnibus clause applied (insofar as the statutory limits only) in view of conformity clause of policy and New Jersey rule as to absolute liability. *Behaney v. Travelers Insurance Co.,* 121 F. 2d 838 (CCA 3, 1941).

New Mexico (For)

Fed.—False representation as to previous cancellations, construing the Texas Financial Responsibility Law—absolute liability will not be imposed where policy was not required and proof was not certified under a "motor vehicle liability policy." *Tri-State Insurance Co. v. Ford,* 120 F. Supp. 118, (D. C. for N. M. March 8, 1954), 4 Auto Cases 2d 332.

New Mexico (Against)

No F. R. cases found.

New York (For)

Distinction between required "motor vehicle liability policy" and "voluntary" policy clearly noted; insurer is not absolutely liable in the latter case. *Cohen v. Metropolitan Casualty Insurance Co.,* 233 App. Div. 340, 252 N. Y. Supp. 841 (4th Dept. 1931); Financial Responsibility Law condition does not apply unless policy was "required" *Letson v. Sun Indemnity Co.,* 147 Misc. 690, 264 N.Y.S. 519 (1933) aff'd. 269 N.Y.S. 965, 241 App. Div. 629 and *American Lumbermens Insurance Co. v. Trask,* (1933) 266 N.Y.S., 1, aff'd. no opinion 264 N. Y. 545. Hired auto endorsement does not cover lessee. *Chesher v. U. S. Casualty Co.,* (1952) 38 Auto Cases 593, 303 N. Y., 589, 105 N. E. 2d 99. F. R. Law not applicable to carriers. F. R. clause applies only to "applicable" coverages which are "required." Id.

North Carolina (For)

Operator's policy, which was limited to non-owned autos, certified under the statute, held: not absolute as to claims arising out of operation by permissive user of insured's car. *Russell v. Lumbermens Mutual Casualty Co.,* 237 N. C. 220, 74 S. E. 2d 615. (Feb. 25, 1953). (Premium is 30% to 70% less for operators only.)

Consistently, an owner's policy, required and certified under the Act (G. S. 20-227 subd. (2)) covered only the vehicle designated by *explicit description* therein, and did not cover the operation of any other vehicle by the insured. Inspite of its avowed purpose (G. S. 20-225): "To require financial responsibility of reckless, inefficient and irresponsible operators of motor vehicles involved in accidents" and that its provisions shall be "liberally construed so as to effectuate this purpose as far as legally and practically possible," the Act could not be so construed. *Howell v. Travelers Indemnity Co.,* 237 N. C. 227, 74 S. E. 2d 610, 2 Auto Cases 2d 611 (1953) cf. Maryland: *Celina Mutual* case and Pennsylvania: contra *Polonitz v. Wasilindra.*

North Carolina (Against)

Fed.—"Assigned Risk Statute" called for a policy covering minimum requirements for "proof" and presumably policy was required (but not necessarily?) including property damage liability up to $1,000, anywhere in the U. S. A.; but the policy provided no coverage for accidents occurring more than 50 miles from garage. Held: Even though accident occurred outside of the 50 mile limit statute imposed liability up to $1,000. *Virginia Surety Co. v. Wright,* 114 F. Supp. 124 (July 30, 1953).

Fed.—(Policy not required.) Financial responsibility statutory omnibus clause cited to support liberal interpretation for benefit of injured parties. *Held:* "Permission," in close case, was for jury where named insured's wife handed keys to operator and he may have deviated from route. *Chatfield v. Farm Bureau Mutual Auto Insurance Co.,* 208 F. 2d 250, 3 Auto Cases 2d 288 (CCA 4, 1953).

Ohio (For)

Where statute permitted the giving of notice of suit by the injured party, in a certified policy case, the failure to give any notice of suit was upheld as a sufficient defense by a company whose policy required such notice. *Gergely v. Pioneer Mutual Casualty Co.,* 48 Ohio L. Abs. 376, 26 Auto Cases 1148, 74 N. E. 2d 432 (1947).

EDITOR'S NOTE: Injured third parties' counsel should know that if defendant—insured's policy was on file (public record), name and address of company would be available for adequate notice.

If the use was not with the permission of the named insured, the operator is not covered. *Gulla v. Reynolds,* 151 O. S. 147, 85 N. E. 2d 116 (1949). (Policy not required.)

Where city taxi ordinance gave injured party direct action "under the terms of the policy" for the amount of the judgment and insured had not complied with policy stipulations recovery was denied. *U. S. Casualty Co. v. Breese,* 21 Ohio App. 21, 153 N. E. 206 (1925).

Ohio (Against)

No F. R. cases found.

Pennsylvania (For)

No F. R. cases found.

Pennsylvania (Against)

Exclusion of property "in charge of" not enforceable where insured under a certified operator's policy stole and damaged a car. *Sky v. Keystone Mutual Casualty Co.,* 150 Pa. Super 613, 29 A. 2d 230 (1942). Contra (not an F. R. case). *Wyatt v. Wyatt,* 3 Auto Cases 2d 148 (Minn. 1953).

Under certified "owner's policy," the drive-other-car coverage was not excess but absolute and primary. *Polonitz v. Wasilindra,* 155 Pa. Super 62, 37 A. 2d 136, (1944). Cf. *American Automobile Insurance Co. v. Pennsylvania Mutual Indemnity Co.,* 66 F. Supp. 159 (E. D. Pa. 1946) holding that the above held "primary carrier" could not recoup from the innsurer of the owner—latter's omnibus coverage was not standard, and see contra North Carolina: *Howell v. Travelers* and Maryland: *Celina v. Citizens.*

A company will be bound by its own policy exclusion rather than the broader language of the statute. *Montgomery v. Keystone Mutual Casualty Co.,* 357 Pa. 223, 53 A. 2d 539 (1947). The policy was a certified "operator's" which was not intended to cover cars owned by the insured; held: it did. (Act excluded *any* W. Comp. Case.)

Rhode Island (For)

Statute applied only to required policies and so (under obsolete "indemnity" policy form) injured party could not recover from insurer a judgment not paid by insured. *Anderson v. American Automobile Insurance Co.,* 50 R. I. 502, 149 A. 797 (1930).

Rhode Island (Against)

No F. R. cases found.

South Dakota (For)

No F. R. cases found.

South Dakota (Against)

Where under Motor Carrier Act insured had not been licensed and policy had not been accepted by the Commissioners, but policy was endorsed to conform. Held: limitation of coverage to described vehicle would not be enforced where Act required coverage for "each vehicle operated." Liberal construction rule. *Hipp v. Prudential Casualty & Surety Co. of St. Louis,* 60 S. D. 300, 244 N. W. 346 (1932).

Tennessee (For)

(Taxicab Ordinance) Passenger in taxicab sued on policy required by ordinance. Defense of lack of notice of accident upheld where court said there was no absolute liability imposed by the ordinance. *Jamison v. New Amsterdam Casualty Co.,* ..... Tenn. App. ....., 254 S. W. 2d 353 (1952).

Editor's Note: Evidence of failure to distinguish voluntary policy, below:

Construing Missouri Financial Responsibility Law (R. S. Missouri 1949 §303.220 (2)(a) probably now §303.190 6 (1) which applies to certified policies only) held: act was absolute only with respect to vehicle insured by policy—substitute trailer not covered. *State Farm Auto Insurance Co. v. Bass,* 192 Tenn. 558, 241 S. W. 2d 568 (1951.

Tennessee (Against)

No F. R. cases found.

Texas (For)

Where collision occurred prior to the effective date of the Automobile Safety Responsibility Act the policy was "wholly uncomplicated by such statute and without regard to whether that law has operated to affect the construction." Held: Father could not recover on son's policy where both were named insureds. (Incorrect?) *Purcell v. Metropolitan Casualty Insurance Co. of N. Y.,* 260 S. W. 2d 134 (Tex. App. 1953). 3 Auto Cases 2d 396.

False representations as to previous cancellations. Texas Act does not impose absolute liability unless policy was "certified" as proof. To impose absolute liability would be unreasonable and would tend to place a premium on deceit and fraud by all prospective buyers of insurance. *Tri-State Insurance Co. v. Ford,* 120 F. Supp. 118 (D. C. in N. M. March 8, 1954), 4 Auto Cases 2d 332.

Texas (Against)

No F. R. cases found.

Vermont (For)

Policy filed under law (required); nevertheless breach of warranty against carrying passengers for hire avoided coverage. *American Fidelity and Casualty Co. v. Provencher,* 90 N. H. 16, 3 A. 2d 824 (1939), construing Vermont law.

Fed.—Interesting "other insurance" case, involving two required and certified policies: One for the owner (the father) and one for the operator (the son)—in separate companies. Held: A limitation in the omnibus clause of the *owner's* policy, avoiding coverage for the operator when

covered by other insurance, was ineffective as between it and the operator's insurer. The latter's policy (as certified) did not cover autos owned by the insured or a "member of his household" and so the owner's policy alone remained. Owner's insurer not being "within the group intended to be benefited by the law" could not take advantage of the certificate filed with the Commissioner so as to extend the operator's coverage to include his father's automobile or *any* automobile. *Farm Bureau Mutual Auto Insurance Co. v. Violano,* 123 F. 2d 692 (CCA 2, 1941).

Virginia (For)

Assault and battery by the insured is not covered. Voluntary policy. *(Hammer,* below—contra, *Wolbarst,* N. H.)

Fed.—Absolute liability provisions of the Act are not applicable to "voluntary" policies—weight of authority (court notes: that effective in 1948 the Virginia Law was amended. §2154 (a14)a now makes it clear that it applies only to certified policies.) *Farm Bureau Mutual Auto Insurance Co. v. Hammer,* 177 F. 2d 793 (CCA 4, 1949). Cert. denied 339 U. S. 914, 70 S. Ct. 575. Policy condition re Financial Responsibility Laws does not render it absolute if policy not otherwise required. *State Farm Mutual Auto Insurance Co. v. Arghyris,* 189 Va. 913, 55 S. E. 2d 16 (1949). Where described car sold by insured and driven by purchaser, held: ownership is essential under an "owner's policy" such as this (not required); "operator's policy" as defined in Financial Responsibility Law not applicable. *Byrd v. American Guarantee & Liability Insurance Co.,* 89 F. Supp. 160, aff'd. (other grounds) 180 F. 2d 246 (CCA 4, 1950).

Editor's Note: In view of clear rule in Virginia, no reference to statute was necessary.

Virginia (Against)

Fed.—Where insured breached the condition for prompt notice of suits and judgments were entered against him aggregating about $47,000—assigned risk and required policy—held: liability absolute—within "limits of the act" (5/10/1)—"limits" construed to include legal interest on the full amount of the judgments until "tendered into court." *Wilkerson v. Maryland Casualty Co.,* 119 F. Supp. 383 (June 23, 1953), affirmed *Maryland v. Wilkerson,* 210 F. 2d 245, 3 Auto Cases 2d 1257 (CCA 4, 1954).

Editor's Note: The statute was here liberally construed. It read in part: "Subject to a limit exclusive of interest and costs * * * of (5/10/1)." This was, I submit, not intended by the legislature to be *unlimited* with respect to interest—although the language admittedly is not specific. Of course, if interest on an unlimited amount is payable under the law, then the decision is correct as the policy should follow the statutory limits. Contra under California decisions. *Standard Accident Insurance Co. of Detroit, Michigan v. Winget* 197 F. 2d 97 (CCA 9, 1952) which was not a Financial Responsibility Law case.

A statute, not strictly a Financial Responsibility Law, (cf. same type in Wisconsin but distinguish New York's, Motor Vehicle Law §59 and Insurance Law §167) requires every policy to cover a permissive user but only to the extent that the owner is covered. Plaintiff has the burden of proving express or implied permission. *Hartford Accident & Indemnity Co. v. Peach,* 193 Va. 260, 68 S. E. 2d 520; *Liberty Mutual Insurance Co. v. Venable,* 194 Va. 357, 73 S. E. 2d 366 (1952). The policy's Financial Responsibility conformity clause was invoked (unnecessarily?) to find coverage for a garage employee—not otherwise covered. *Newton v. Employer's Liability Insurance Corp.,* 107 F. 2d 164 CCA 4, 1939. Cf. contra, *Clarke v. Harleysville Mutual,* 123 F. 2d 499 (CCA 4, 1941) and *Lumbermens, etc. v. Indemnity Insurance Co. of N. A.,* 186 Va. 204, 42 S. E. 2d 298. (The statute does not make the owner liable in the absence of respondeat superior and no "compulsory insurance" for operators is intended. Id.)

West Virginia (For)

What constitutes notice of expiration of certified policy? Commissioner had agreed with Bureau that extra copy filed to turn up on expiration date was O.K. Held: No further notice necessary. *Zurich General Accident Insurance Co. v. Taylor,* 28 F. Supp. 159 (D. C., S. D., W. Va., 1941). Under old form of West Virginia law certificate was issued by insurer for an "owner's policy" (required) covering specified car owned by Earl as "named insured" but endorsed under the Act to cover his brother James, *while* operating *said car only.* Held: James could not delagate permission to another person so that a judgment against such operator would be covered under the "absolute" provisions of the act because he was neither the "owner" nor the "named insured" and Earl had not given his permission. *Adkins v. Inland Mutual*

Insurance Co., 124 W. Va. 388, 20 S. E. 2d 471 (1942).

Wisconsin (For)

EDITOR'S NOTE: Apart from its Financial Responsibility Law. Wisconsin has insurance laws which permit the joinder of the insurer with the insured (in motor vehicle insurance only) and, except with respect to garages, etc., require coverage for the permissive user (Wisconsin Stat. 1951 §§204.34 and 204.30) when used for the purposes declared. Exclusion of claims by named insured against additional insured (not found in today's standard policy) is valid. *Frye v. Theig,* 253 Wis. 596, 34 N. W. 2d 793, 30 CCH Auto 702 (1948) cited in *Musselman v. Mutual Auto Insurance Co. of Town of Herman,* ___ Wis. ___, ___ N. W. 2d ___, 4 Auto Cases 2d 316 (1954).

Misrepresentation as to age (64 for 75 years discovered by insurer *after* it filed its SR-21), in action to rescind policy, here sustained in a trial court decision (which may never be published). *Baraboo National Bank as Exec. v. State Farm Mutual Insurance Co.,* (C. C. of Sauk Co. Wis., March 5, 1954).

Wisconsin (Against)

Where the policy was certified for use under permit issued by the Public Service Commission, the conformity clause in reference to Financial Responsibility Laws was invoked to find coverage for a permissive user who was operating for non-commercial use. *Rusch v. Millke,* 234 Wis. 380, 291 N. W. 300 (1940).

Insurer v. Named Insured. Permissive user's liability (a member of named insured's household under 25 years of age in violation of a limitation in the policy—not standard) held (1) covered under statutory omnibus clause (Wis. Stat. §204.34 (1)) but Financial Responsibility Law was not applicable as policy had not been issued in connection therewith and (2) insurer could not invoke statutory reimbursement clause (similar to standard Financial Responsibility conformity condition) to recover from named insured payments required by statute but not covered by policy terms. *Olander v. Klapprote,* 263 Wis. 463, 57 N. W. 2d 734 (March 1953).

SEVEN CHART ANALYSIS
of the
AUTOMOBILE LIABILITY SECURITY LAWS
of the
UNITED STATES AND CANADA
December, 1953

(Amended to May 15th, 1954 as shown excepting Chart VII, Canadian Laws, corrected to 1953.)

NOTES

1—Whenever administrator suspends or revokes license, or has right to do so, he may require proof.

2—Upon suspension or revocation in any other state.

3—Minor registering motor vehicle must furnish proof of insurance. Unlawful for minor to operate vehicle unless vehicle or minor is insured.

4—Unless proof filed, license of operator and registrations of owner of motor vehicle involved in accident causing injury or damage shall be suspended. Inapplicable if vehicle insured or parked. No provision for termination of requirement of proof.

5—From habitually reckless or negligent driver or habitual violator of traffic laws.

6—Vehicles owned by minors cannot be registered unless proof filed; minors between 16 and 18 may operate only insured vehicles.

7—Discretionary.

8—Minors owning motor vehicles must furnish proof before registration.

9—Where a person's record warrants it.

10—Upon any reasonable ground appearing on the records.

11 - Minor operator obtaining license after 6/1/55 must be insured.

CHART I — SCOPE OF LAWS

STATE	COMPULSORY INSURANCE?	ACCIDENTS: Security required? See Chart II	ACCIDENTS: Proof required?	CONVICTIONS Proof required? See Chart III	JUDGMENTS Satisfaction and/or proof required? See Chart IV	Proof required in other events?
Alabama	No	Yes	No	Yes	Yes	No
Arizona	No	Yes	No	Yes	Yes	No
Arkansas	No	Yes	No	Yes	Yes	No
California	No	Yes	No	Yes	Yes	No
Colorado	No	Yes	No	Yes	Yes	No
Connecticut	No (6)	Yes	No	Yes	Yes	Yes (9)
Delaware	No	Yes	No	Yes	Yes	No
Dist. of Col.	No	No	No	Yes	Yes	No
Florida	No	Yes	Yes	No	No	No
Georgia	No	Yes	No	Yes	No	No
Hawaii	No	Yes	No	Yes	Yes	No
Idaho	No	Yes	No	Yes	Yes	No
Illinois	No	Yes	No	Yes	Yes	No
Indiana	No	Yes	Yes (7)	Yes	Yes	Yes (10)
Iowa	No	Yes	No	Yes	Yes	No
Kansas	No	No	No	Yes	Yes	No
Kentucky	No	Yes	No	Yes	Yes	No
Louisiana	No	Yes	No	Yes	Yes	No
Maine	No	Yes	Yes	Yes	Yes	Yes (10)
Maryland	No (11)	Yes	No	Yes	Yes	No
Massachusetts	Yes	No	No	No	Yes	No
Michigan	No	Yes	Yes	Yes	Yes	No
Minnesota	No	Yes	No	Yes	Yes	No
Mississippi	No	Yes	No	Yes	Yes	No
Missouri	No	Yes	No	Yes	Yes	No
Montana	No	Yes	No	Yes	Yes	No
Nebraska	No	Yes	No	Yes	Yes	No
Nevada	No	Yes	No	No	No	No
New Hampshire	No	Yes	Yes	Yes	Yes	No
New Jersey	No	Yes	No	Yes	Yes	No
New Mexico	No	No	Yes (4)	Yes	Yes	Yes (2)
New York	No (3)	Yes	Yes	Yes	Yes	Yes (2, 10)
North Carolina	No	Yes	No	Yes	Yes	No
North Dakota	No	Yes	No	Yes	Yes	No
Ohio	No	Yes	No	Yes	Yes	No
Oklahoma	No	Yes	No	Yes	Yes	No
Oregon	No	Yes	Yes	Yes	Yes	No
Pennsylvania	No	Yes	No	Yes	Yes	No
Rhode Island	No (8)	Yes	No	Yes	Yes	No
South Carolina	No	Yes	No	Yes	Yes	No
South Dakota	No	No	No	Yes	Yes	No
Tennessee	No	Yes	No	No	Yes	No
Texas	No	Yes	No	Yes	Yes	No
Utah	No	Yes	No	No	Yes	No
Vermont	No	Yes	Yes	Yes	Yes	No
Virginia	No	Yes	No	Yes	Yes	Yes (5, 10)
Washington	No	Yes	No	Yes	Yes	No
West Virginia	No	Yes	No	Yes	Yes	No
Wisconsin	No	Yes	No	Yes	Yes	Yes (5)
Wyoming	No	Yes	No	Yes	Yes	No

CHART II — SECURITY FOR PAST ACCIDENT

Ver. §.#

STATE	Requires: security (S); proof (P)	From driver(D); owner(O) of car involved	Regardless of fault?	Minimum property damage	LICENSES AFFECTED: Driver's license: Of driver	Driver's license: Of owner whoever not the driver	All registrations: Of driver whoever not the owner	All registrations: Of owner	Applicable by reciprocity to accidents in other states?	INSURANCE IN EFFECT: Liability limits affording exemption	Information required in accident report?	Notice or verification required from insurer? (* - Only if policy not in effect)	Unadmitted insurer acceptable for out-of-state car? (*-Must authorize service of process)	OTHER EXEMPTIONS (1. Parked car; 2. Car stopped, standing or parked; 3. Certain motor carriers; 4. Certain publicly owned vehicles.): From security	OTHER EXEMPTIONS: From proof	TERMINATION OF REQUIREMENTS: Security: Exoneration(E); release or agreement(R); lapse of one year without suit (L)	TERMINATION OF REQUIREMENTS: How long proof required	Unusual provision
Alabama	S only	D & O	Yes	$50	Yes	No	No	Yes	Yes	5/10/1	Yes	Notice	Yes*	1,3,4	Not req.	E, R, L	Not req.	
Arizona	S only	D & O	Yes	$100	Yes	No	No	Yes	Yes	5/10/1	Yes	Verif.	Yes*	2,3,4(s)	Not req.	E, R, L	Not req.	
Arkansas	S only	D & O	Yes	$100	Yes	No	No	Yes	Yes	5/10/1	Yes	Notice	Yes*	1,3,4	Not req.	E, R, L	Not req.	
California	S only	D (v)	Yes	$100	Yes (w)	No	No	No (v)	Yes	5/10/1	Yes	Verif.*	Yes*	1,4(r)	Not req.	E, R, L	Not req.	(aa)
Colorado	S only	D & O	Yes	$50	Yes	No	No	Yes	No	5/10/1	Yes	Verif.*	Yes*	4	Not req.	E, R, L	Not req.	
Connecticut	S only	D & O	Yes	$100	Yes	No	No	Yes	Yes	20/20/1	Yes	Verif.*	Yes*	1,3,4	Not req.	E, R, L	Not req.	
Delaware	S only	D & O	Yes	$100	Yes	No	No	Yes	No	5/10/1	No	Notice	Yes*	2,3,4	Not req.	E, R, L	Not req.	(bb)
Florida	S & P	D	No	$50	Yes	No	No	No	Yes (f)	5/10/1	No	Notice	Yes*	4	4	E, R, L	1 yr.	
Georgia	S only	D & O	Yes	$50	Yes	No	No	Yes	No	5/10/1	Yes	Notice	Yes*	1,3,4	Not req.	E, R, L	Not req.	
Hawaii	S only	D & O	Yes	$100	Yes	Yes	No	No	No	5/10/1	No	Notice	Yes*	1,3,4	Not req.	E, R, L	Not req.	
Idaho	S only	D & O	Yes	$50	Yes	No	No	Yes	No	5/10/1	No	Notice	Yes*	1,4	Not req.	E, R, L	Not req.	
Illinois	S only	D & O	Yes	$100	Yes	No	No	Yes	No	5/10/1	Yes	Verif.*	Yes*	2,3,4	Not req.	E, R, L	Not req.	
Indiana	S & P (a)	D & O (x)	Yes	$50	Yes	Yes (x)	Yes	Yes (x)	No	5/10/1	No	Notice	No prov.	3	3 (a)	E, R, L	1 yr. (a)	
Iowa	S only	D & O	Yes	$50	Yes	No	No	Yes	No	5/10/1	Yes	Verif.*	Yes*	2,3,4	Not req.	E, R, L	Not req.	
Kentucky	S only	D & O	Yes	$100	Yes	No	No	Yes	No	5/10/1	No	[illegible]	Yes*	1,4	Not req.	E, R, L	Not req.	
Louisiana	S only	D & O (m)	Yes	$100	Yes	No	No	Yes (m)	Yes	5/10/1	Yes	Verif.*	Yes*	1,3,4	Not req.	E, R, L	Not req.	
Maine	S & P	D & O	No	$100	Yes	No	No	Yes	No	10/20/5	Yes	Verif.*	No	3,4	3, 4	E, R, L	3 yrs.	
Maryland	S only	D & O	Yes	$75	Yes	No	No	Yes	No	10/20/5	No	Notice	Yes*	1(r)	Not req.	E, R, L	~~[illegible]~~ Not spec.	
Michigan	S & P (d)	D & O	Yes	(d)	Yes	Yes	Yes	Yes	No	5/10(d)	Yes	No	Yes*	1,4	1, 4	R, L	3 yrs. (d)	(d) (cc)
Minnesota	S only	D & O	No	$100	Yes	Yes	No	No	No	10/20/2	Yes	Verif.*	Yes*	2,4(r)	Not req.	E, R, L	Not req.	
Mississippi	S only	D & O	No	$50	Yes	No	No	Yes	Yes	5/10/5	Yes	Verif.*	Yes*	1,4	Not req.	E, R, L	Not req.	
Missouri	S only	D & O	Yes	$100	Yes	No	No	Yes	Yes	5/10/2	Yes	Verif.*	Yes*	1,3,4	Not req.	E, R, L	Not req.	
Montana	S only	D & O	Yes	$100	Yes	No	No	Yes	Yes	5/10/1	Yes	No	Yes*	1,3,4	Not req.	E, R, L	Not req.	
Nebraska	S only	D & O	Yes	$100	Yes	No	No	Yes	No	5/10/1	No	Notice	Yes*	1,4	Not req.	E, R, L (u)	Not req.	(o)
Nevada	S only	D & O	Yes	$100	Yes	No	No	Yes	No	5/10/1	Yes	Verif.	Yes*	1,4	Not req.	E, R, L	Not req.	
New Hamp	S & P	D & O	No	$50	Yes	Yes	Yes	Yes	No	5/10/1	Yes	Verif.*	Yes	4	4	E, R, L	Indef	
New Jersey	S only	D & O	Yes	$100	Yes	No	No	Yes	Yes	5/10/1	Yes	Verif.*	Yes*	1,3,4(s)	Not req.	E, R, L	Not req.	(x)
New York	S & P	D & O	Yes	$50	Yes	No	No	Yes	Yes	10/20/5	Yes	Verif.*	Yes	3,4(g)	3, 4	E, R, L	(h)	
N. Carolina	S only	D & O	No (b)	$100	Yes	Yes	No	No	Yes	5/10/1	Yes	Verif.*	Yes	1,3,4	Not req.	E, R, L	Not req.	
North Dakota	S only	D & O	Yes	$100	Yes	Yes	No	No	No	5/10/1	No	Notice	Yes*	2,4	Not req.	E, R, L	Not req.	(e) (k)
Ohio	S only	D & O	Yes	$100	Yes	Yes	Yes	Yes	No	5/10/5	Yes	Verif.*	Yes*	1,4	Not req.	E, R, L	Not req.	(dd)
Oklahoma	S only (t)	D & O	Yes	$100 (n)	Yes	No	No	Yes	No	5/10/1	Yes	Verif.*	Yes*	1,3,4	Not req. (t)	E, R, L	Not req. (t)	(t) (n)
Oregon	S & P	D & O	Yes	$100	Yes	No	No	No (v)	No	5/10/1	Yes	Verif.*	Yes*	1,4(r)	None	E, R, L	3 yrs.	(y)
Pennsylvania	S only	D & O	Yes	$100	Yes	No	No	Yes	Yes	5/10/1	Yes	Verif.	Yes*	1,4	Not req.	E, R, L	Not req.	
Rhode Island	S only	D & O	Yes	$100	Yes	No	No	Yes	Yes	5/10/1	Yes	Verif.*	Yes*	1,3,4	Not req.	E, R, L	Not req.	
So. Carolina	S only	D & O	Yes	$50	Yes	No	No	Yes	No	5/10/1	Yes	No	Yes*	3,4	Not req.	E, R, L	Not req.	
Tennessee	S only	D & O	Yes	$50	Yes	No	No	Yes	Yes	5/10/1	No	Notice	Yes*		Not req.	E, R, L	Not req.	
Texas	S only	D & O	Yes	$100	Yes	No	No	Yes	Yes	5/10/5	Yes	Verif.*	Yes*	1,3,4	Not req.	E, R, L	Not req.	
Utah	S only	D (v)	Yes	$100	Yes	No	Yes	(ee)	Yes	5/10/1	Yes	No	Yes*	1,4(r)	Not req.	E, R, L	Not req.	
Vermont	S & P (i)	D	No (i)	$35	Yes	No	No	No	No	10/20/2	No	Verif.*	Yes*	1	1	E, R, L	3 yrs.	(i)
Virginia	S only	D	No	$50 (c)	Yes	No	Yes	Yes (o)	No	~~5/10/1~~ 10/20/1	No	Notice	Yes	1,3,4(g)	Not req.	E, R, L (j)	Not req.	(c)
Washington	S only (p)	D or O	Yes	$200	Yes	Yes	No	No	No	5/10/1	Yes	Verif.	Yes*	1(q)	Not req.	E, R, L	Not req.	(p) (q)
West Virginia	S only	D & O	Yes	$100	Yes	No	No	Yes	No	5/10/1	Yes	Verif.*	Yes*	1,4	Not req.	E, R, L	Not req.	(ee)
Wisconsin	S only	D & O	Yes	$100	Yes	No	No	Yes	Yes	10/20/5	No	Notice	Yes*	1,3,4	Not req.	E, R, L	Not req.	
Wyoming	S only	D & C	Yes	$50	Yes	No	No	Yes	No	5/10/1	No	Notice	Yes*	1,3,4	Not req.	E, R, L	Not req.	

EXPLANATORY NOTE: These provisions are applicable to accidents causing bodily injury, and (except for Michigan) to accidents causing property damage in excess of the specified minimum. Nonresidents as well as residents are subject to the laws.

a—Requirement of proof discretionary.

b—Appeal to court automatically stays suspension, and court may exempt motorist not at fault.

c—Where property damage is less than $300, security not required in behalf of nonresident except on request.

d—Law not applicable to property damage. Proof not required if claims settled or security filed BEFORE suspension.

e—Commissioner may stay suspension for not exceeding four months in case of hardship or doubt as to liability.

f—Commissioner authorized to establish reciprocal agreements with other states.

g—Person whose proof furnished by employer.

h—Requirement of proof terminable after lapse of one year without suit or settlement or after exoneration; otherwise proof to be maintained indefinitely. After 3 years, standard policy acceptable as proof.

i—Security required only if operator is convicted as a result of accident.

j—In case of undue hardship Commissioner may dispense with release.

k—Claimant must file notice of intention to make claim.

m—Registration of owner not suspended where under law owner is not legally liable.

n—Accident report to be accompanied by repairman's estimate.

o—Only if owner was the driver.

p—Applicable to personal injury only if serious enough to require medical attention by a doctor.

q—Inapplicable to person who was unable to procure insurance because of race or color.

r—Person who has received payment for his damages.

s—Operator employed by owner.

t—In hardship cases court may modify extent of compliance with security requirement, and in that event proof is required.

u—If insurer of any operator settles, all operators deemed released.

v—Owner subject to law if employer of driver. In that event registrations of employer suspended.

w—Privilege to drive as chauffeur in course of employment not suspended.

x—Discretionary as to owner.

y—Person injured or damaged must submit report or evidence as to extent of injury or damage.

z—Non-owner subject to requirements may operate vehicle when owner has furnished proof.

aa—Applicable only to accidents on streets and highways.

bb—Commissioner may issue limited license or registration when necessary for occupation or livelihood.

cc—Court has discretion to restore license where needed for occupation.

dd—Registrar shall not require security for benefit of person who fails, after notice, to give information as to extent of injury or damage.

ee—Only if owner was the driver or employer of driver.

CHART III — PROOF UPON CONVICTION

CHART III — PROOF UPON CONVICTION

STATE	OFFENSES‡ (* —Requirement of proof discretionary; DD—Drunken Driving; Ms—Manslaughter; Fl—Felony; HR—Hit and Run; RD—Reckless Driving; Pj—Perjury; Sp—Speeding; O—Others)	OFFENSES OUTSIDE OF STATE COVERED? Other states?	Canadian provinces?	Are registrations affected?	NONRESIDENTS: Provisions for notice to home state?	HOW LONG PROOF REQUIRED: Number of Years († — return thereafter discretionary)	From time first required (R); time furnished (F)
Alabama	(9)	Not specified	Not specified	Yes	No	3	R
Arizona	(9)	Not specified	Not specified	Yes	No	3	R
Arkansas	(9)	Not specified	Not specified	Yes	No	3	R
California	DD, Ms, Fl, HR, O, (1)	No	No	No	Yes	3	R
Colorado	DD, Ms, Fl, HR, RD (3 in yr.), Pj	Yes	Yes	Yes	Yes	3	R
Connecticut	DD, Ms, HR, RD*, Pj, Sp*, O, (3)	Yes	No	Yes	No	3†	R (14)
Delaware	(9)	Not specified	Not specified	Yes	No	3	R
Dist. of Col.	DD, HR, RD if injury results	Yes	Yes	Yes	Yes	3†	F
Georgia	DD, Ms, Fl, HR, Pj, (1)	Not specified	Not specified	Yes	No	3	R
Hawaii	(5) (9) O	Not specified	Not specified	No	No	3	R
Idaho	(9)	Not specified	Not specified	Yes	No	3	R
Illinois	DD, Ms, Fl, HR, 3RD or Sp in yr., Pj, O	No	No	Yes	No	3	R
Indiana	(9)	Yes	Yes	Yes	Yes	3	F
Iowa	(9)	Not specified	Not specified	Yes	No	3	R
Kansas	DD, Ms, Fl, HR, RD (3 in yr.), O	Yes	Yes	No	Yes	2	R
Kentucky	(9)	Not specified	Not specified	Yes	No	3	R
Louisiana	(9)	Not specified	Not specified	Yes	Yes	3	R
Maine	(7)*	Yes	Yes	Yes	No	3	F
Maryland	DD, Ms, Fl, HR, Pj, O	Yes	Yes	Yes	Yes	← Indefinitely →	
Michigan	DD, Ms, Fl, HR, RD (3 in yr.), Pj	Yes	Yes	Yes	Yes	3	R
Minnesota	(8)	Not specified	Not specified	No	No	5	R
Mississippi	(9)	Not specified	Not specified	Yes	No	3	R
Missouri	(9)	Not specified	Not specified	Yes	Yes	3	R
Montana	(9)	Not specified	Not specified	Yes	No	3	R
Nebraska	(9)	Not specified	Not specified	Yes	No	3	R
New Hampshire	(7)*	Yes	Yes	Yes	No	Indefinitely	
New Jersey	DD, HR, RD*, O	Yes	Yes	Yes	No	3†	R
New Mexico	DD, Ms, Fl, Pj, HR, RD (3 in yr.)	Yes	Yes	Yes	Yes	2	F
New York	(9)	Yes	Yes	Yes	Yes	Indefinitely	
North Carolina	(9)	Not specified	Not specified	No	No	2	R
North Dakota	(8)	Not specified	Not specified	No	No	5	R
Ohio	DD, Ms, Fl, HR, Pj	No	No	Yes	Yes	3	R
Oklahoma	(9)	Not specified	Not specified	Yes	No	3	R
Oregon	DD, Ms, Fl, HR, RD (3 in yr.), Pj	No	No	Yes	No	3	F
Pennsylvania	(9) (2)*	Not specified	Not specified	Yes	No	3	R
Rhode Island	(9)	Not specified	Not specified	Yes	No	1	R
South Carolina	(9)	Not specified	Not specified	Yes	No	3	R
South Dakota	DD, HR, RD	No	No	No	No	2	R
Texas	(9)	Not specified	Not specified	Yes	No	3	R
Vermont	DD, HR, O, (12)	No	No	No	No	3†	R
Virginia	DD, Ms, HR, Fl, RD (2 in yr.), Pj, O, (13)	Yes	Yes	Yes	Yes	5† (4)	(11)
Washington	DD, Ms, Fl, HR, RD, Pj	Yes	Yes	No	Yes	3	R
West Virginia	(9)	Not specified	Not specified	Yes	No	3	R
Wisconsin	(9)	Yes	No	Yes (6)	Yes	3	R
Wyoming	(9)	Not specified	Not specified	Yes	No	3	R

‡—All of the offenses relate to operation of motor vehicles or to licenses. This is merely a general classification. Definitions in the various states differ greatly.

1—2 or 3 of certain less serious offenses in 1 year.

2—Whenever administrator has right to suspend or revoke but is disposed not to do so.

3—Also required of "any person who, in the opinion of the Commissioner of Motor Vehicles, shall have violated any of the provisions" of certain specified sections.

4—In case of conviction out of state, period limited to maximum prescribed by jurisdiction where offense occurred.

5—When court has discretion to revoke or suspend for certain offenses, but does not, Chief of Police shall suspend until proof given.

6—Court may restrain suspension of registration in case of undue hardship.

7—Violation of any of the provisions of any state law relative to motor vehicles as the administrator of the act shall determine.

8—Whenever license revoked.

9—Any conviction resulting in suspension or revocation

10—Three misdemeanors in two years.

11—From termination of revocation.

12—Violation of Motor Vehicle Act where accident results.

13—Also certain local ordinances.

14—Commissioner has discretion to remove requirements after 1 year

CHART IV — SUSPENSION IN EVENT OF JUDGMENT

STATE	MINIMUM AMOUNT		RENDERED OUTSIDE OF STATE		Suspension results when judgment unsatisfied how long? (No. of days after: rendition or entry (R); final (F); expiration of time to appeal (E))	Are registrations affected?	RELIEF FROM SUSPENSION				NON RESIDENTS	HOW LONG PROOF REQUIRED	
	Property Damage	Bodily injury	Other states?	Canadian provinces?			Requires: (satisfaction (S); proof (P))	Is bankruptcy discharge satisfaction?	Payment to certain limits deemed satisfaction?	Provision for installment payment?	Provision for notice to home state?	No. of years (*— return thereafter discretionary)	From time first required (R); time furnished (F)
Alabama	No min.	No min.	Yes	Yes	30-E	Yes	S & P	No	Yes	Yes	Yes	3	R
Arizona	No min.	No min.	Yes	Yes	30-E	Yes	S & P	No	Yes	Yes	Yes	3	R
Arkansas	No min.	No min.	Yes	Yes	30-R	Yes	S & P	No	Yes	Yes	Yes	3	R
California	$100	No min.	Yes	No	30-F	Yes	S & P (7)	No	Yes	Yes	Yes	3	R
Colorado	$100	No min.	Yes	Yes	30-R	Yes	S & P	No	Yes	Yes	Yes	3	R
Connecticut	No min.	No min.	Yes	Yes	Upon E	Yes	S only	No	Yes	No	No		
Delaware	No min.	No min.	Yes	Yes	60-E	Yes	S & P	No	Yes	Yes	Yes	3	R
Dist. of Col	No min.	No min.	Yes	Yes†	30-E	Yes	S & P	No	Yes	Yes	Yes	3*	F
Hawaii	No min.	No min.	Yes	Yes	60-E	No	S & P	No	Yes	Yes	Yes	3	R
Idaho	No min.	No min.	Yes	Yes	60-E	Yes	S & P	No	Yes	Yes	Yes	3	R
Illinois	No min.	No min.	Yes	Yes	30-R	Yes	S & P	No	Yes	Yes	Yes	3	R
Indiana	$50	No min.	Yes	Yes	30-E	Yes	S & P	No	Yes	Yes	Yes	3	R
Iowa	No min.	No min.	Yes	Yes	60-E	Yes	S & P	No	Yes	Yes	Yes	3	R
Kansas	No min.	No min.	Yes	Yes	30-E	Yes	S & P (4)	No	Yes	Yes	Yes	2 (11)	R
Kentucky	No min.	No min.	Yes	Yes	60-E	Yes	S & P	No	Yes	Yes	Yes	3	R
Louisiana	No min.	No min.	Yes	Yes	60-E	Yes	S & P	No	Yes	Yes	Yes	3	R
Maine	$100	No min.	Not spec.	Not spec.	(1)	Yes	S & P	No	Yes	No	No	3	F
Maryland	$25	No min.	Yes	Yes	30-R	Yes	S & P	No	Yes	Yes	Yes	Not spec.	Not spec.
Massachusetts	No min.	P. D. only	No	No	60-R	No	S only	No†	No	No	No		
Michigan	No min.	No min.	Yes	Yes	30-E	Yes	S & P	No	Yes	Yes	Yes	3	R
Minnesota	No min.	No min.	Yes	No	30-E	No	S & P	No	Yes	Yes	Yes	5	R
Mississippi	No min.	No min.	Yes	Yes	60-E	Yes	S & P	No	Yes	Yes	Yes	3	R
Missouri	No min.	No min.	Yes	Yes	60-R	Yes	S & P	No	Yes	Yes	Yes	3	R
Montana	No min.	No min.	Yes	Yes	60-E	Yes	S & P	No	Yes	Yes	Yes	3	R
Nebraska	No min.	No min.	Yes	Yes	60-E	Yes	S & P	No	Yes	Yes	Yes	3	R
New Hampshire	$50	No min.	Not spec.	Not spec.	(1)	Yes	S & P	No	Yes	Yes	No	Indefinitely	
New Jersey	$100	No min.	Yes	Yes	60-R	Yes	S & P	No	Yes	Yes	Yes	3*	R
New Mexico	No min.	No min.	Yes	Yes	45-E	Yes	S & P	No	Yes	Yes	Yes	2	F
New York	$50	No min.	Yes	Yes	15-E	Yes	S & P	No	Yes	Yes	Yes	Indefinitely	
North Carolina	No min.	No min.	Yes	Yes	60-E	No	S & P	No	Yes	Yes	Yes	2	R
North Dakota	No min.	No min.	Yes	No	30-E	No	S & P	No	Yes	Yes	Yes	5	R
Ohio	No min.	No min.	Yes	Yes	30-R	Yes	S & P	No	Yes	Yes	Yes	3	R
Oklahoma	No min.	No min.	Yes	Yes	60-E	Yes	S & P	Yes	Yes	Yes	Yes	3	R
Oregon	No min.	No min.	Yes	Yes	60-E	Yes	S & P (7)	No	Yes	Yes	Yes	3	(6)
Pennsylvania	$5.33	$5.33	Yes	Yes	60-E	Yes	S & P	No	Yes	Yes	Yes	3	R
Rhode Island	No min.	No min.	Yes	Yes	60-E	Yes	S & P	No	Yes	Yes	Yes	1	R
South Carolina	No min.	No min.	Yes	No	60-E	Yes	S & P	No	Yes	Yes	Yes	3	R
South Dakota	No min.	No min.	Yes	No	Upon R	No	S only	No	No	Yes	Yes		
Tennessee	No min.	No min.	Yes	Yes	60-E	Yes	S only	No	Yes	Yes	No		
Texas	No min.	No min.	Yes	Yes	60-E	Yes	S & P	No	Yes	Yes	Yes	3	R
Utah	No min.	No min.	Yes	Yes	60-E	Yes	S & P	No	Yes	Yes	Yes	3	R
Vermont	No min.	No min.	No	No	Not spec.	No	S & P	No	Yes	Yes	Yes	3*	R
Virginia	$50	No min.	Yes	Yes	15-E	Yes	S & P	No	Yes	Yes	Yes	Not spec.	Not spec.
Washington	$100	No min.	Yes	Yes	30-E (2)	No	S & P (2)	No	Yes	Yes	Yes	3	R
West Virginia	No min.	No min.	Yes	Yes	30-E	Yes	S & P	No	Yes	Yes	Yes	3	R
Wisconsin	$100	$100	Yes	Yes	60-E	Yes (5)	S & P	No	Yes	Yes	Yes	3	R
Wyoming	No min.	No min.	Yes	Yes	60-E	Yes	S & P	No	Yes	Yes	Yes	3	R

Not spec. = Not specified in law.
†—By decision.
1—License is suspended after accident, and suspension continues if judgment is obtained.
2—No suspension of judgment-debtor who did not personally operate.
3—Upon rendition.
4—Licenses to be restored if judgment unsatisfied 3 years and debtor is unable to give proof.
5—Court may restrain suspension of registration in case of undue hardship.
6—From date of satisfaction.
7—License suspended 5 years may be restored notwithstanding non-satisfaction, if proof filed.
8—Suspension effective for 5 years unless judgment satisfied.

CHART V — NATURE AND REQUISITES OF PROOF

STATE	Types acceptable: (certificate of insurance (I); bond (B); deposit (D); financial statement (F))	May owner give proof for chauffeur or member of family?	Liability limits	Geographical limits of coverage	INSURANCE — Notice of termination: (cancellation (C); expiration (E)) How many days?	Filing by nonresident of certificate of unadmitted insurer — Is such certificate acceptable?	Filing by nonresident of certificate of unadmitted insurer — Filing subject to compliance by unadmitted insurer with certain conditions?	Filing by nonresident of certificate of unadmitted insurer — Filing subject to reciprocity provisions?	Types of policy: (owner's (M. V.); operator's (Op.))	Provision for restricted license where certain type of policy issued?	Provision for absolute liability?	Approval of policy form required?	Special provisions relating to policies
Alabama	I, B, D	Yes	5/10-1	U. S. & Can.	C, E-10	Yes	Yes	No	M.V., Op.	No	Yes	No. prov.	
Arizona	I, B, D	Yes	5/10-1	U. S. & Can.	C, E-10	Yes	Yes	No	M.V., Op.	No	Yes	No prov.	
Arkansas	I, B, D	Yes	5/10-1	U. S. & Can.	C, E-10	Yes	Yes	No	M.V., Op.	No	Yes	No prov.	
California	I, B, D	No prov.	5/10-1	U. S.	C-10	No			M.V., Op.	Yes	No	No prov.	
Colorado	I, B, D	Yes	5/10-1	U. S. & Can.	C-10	Yes	Yes	No	M.V., Op.	Yes	Yes	Yes	
Connecticut	I, B, D	Yes	20/20-1	Not spec.	C, E-10	No			Not spec.	Yes	No	No. prov.	
Delaware	I, B, D	Yes	5/10-1	U. S. & Can.	(1)	Yes	Yes	No	M.V, Op.	No	Yes	No prov.	
Dist. of Col.	I, B, D	Yes	5/10-1	U. S.	C, E-10	Yes	No	No	M.V., Op.	No	Yes	Yes	
Florida	I, B, D	No prov.	5/10-1	U. S. & Can.	C-10	Yes	Yes	No	M.V., Op.	No	No	No prov.	
Georgia	I	No prov.	5/10-1	Not spec.	No prov.	No			Not spec.	No	No	No. prov.	
Hawaii	I, B, D	Yes	5/10-1	Territory	C, E-10	Yes	Yes	No	M.V., Op.	No	Yes	No. prov.	
Idaho	I, B, D	Yes	5/10-1	U. S. & Can.	C, E-10	Yes	Yes	No	M.V., Op.	No	No	No. prov.	
Illinois	I, B, D	Yes	5/10-1	U. S. & Can.	C-10	Yes	Yes	No	M.V., Op.	No	Yes	Yes	
Indiana	I, B, D	Yes	5/10-1	Not spec.	C-10	Yes	Yes	No	M.V., Op.	Yes	Yes	Yes	
Iowa	I, B, D	Yes	5/10-1	U. S. & Can.	C, E-10	Yes	Yes	No	M.V., Op.	No	Yes	No prov.	
Kansas	I, B, D	Yes	5/10-1	U. S. & Can.	C-10	Yes	Yes	No	M.V., Op.	Yes	Yes	No prov.	
Kentucky	I, B, D	Yes	5/10-1	U. S. & Can.	C, E-10	Yes	Yes	No	M.V., Op.	No	Yes	No prov.	
Louisiana	I, B, D	Yes	5/10-1	U. S. & Can.	C, E-10	Yes	Yes	No	M.V., Op.	No	Yes	No prov.	
Maine	I, B, D, F	No prov.	10/20-5	U. S. & Can.	C-10 (2)	No			M.V.	No	Yes	Yes	
Maryland	I, B, D	Yes	~~5/10-5~~ 10/20/5	U. S. & Can.	C-30	Yes	Yes	No	M.V., Op.	Yes	Yes	Yes	
Massachusetts	I, B, D	No prov.	5/10	State	C-20 (3)	No			M.V.	No	Yes	Yes	(5)
Michigan	I, B, D	Yes	5/10-1	U. S. & Can.	C-10	Yes	Yes	No	M.V., Op.	Yes	Yes	No prov.	
Minnesota	I, B, D	Yes	10/20-2	U. S. & Can.	C, E-10	Yes	Yes	No	M.V., Op.	Yes	Yes	No prov.	
Mississippi	I, B, D	Yes	5/10-5	U. S. & Can.	C, E-5	Yes	Yes	No	M.V., Op.	No	Yes	No prov.	
Missouri	I, B, D	Yes	5/10-2	U. S. & Can.	C, E-10	Yes	Yes	No	M.V., Op.	No	Yes	No	
Montana	I, B, D	Yes	5/10-1	U. S. & Can.	C, E-10	Yes	Yes	No	M.V., Op.	No	Yes	No prov.	
Nebraska	I, B, D	Yes	5/10-1	U. S. & Can.	C, E-10	Yes	Yes	No	M.V., Op.	No	Yes	No prov.	
New Hampshire	I, B, D, F	No prov.	5/10-1	U. S. & Can.	C-10	No			M.V. (7)	No	Yes	Yes	(7)
New Jersey	I, B, D	Yes	5/10-1	U. S.	C-10	Yes	Yes	Yes	M.V., Op.	No	Yes	No prov.	
New Mexico	I, B, D	Yes	5/10-1	U. S. & Can.	C, E-10 (6)	Yes	Yes	No	M.V., Op.	No	Yes	Yes	
New York	I, B, D	Yes	10/20-5	U. S. & Can.	C, E-10	Yes	Yes	No	M.V., Op.	Yes	Yes	Yes	
North Carolina	I, B, D	Yes	5/10-1	U. S. & Can.	C, E-20	Yes	Yes	No	M.V., Op.	No	Yes	No. prov.	
North Dakota	I, B, D	Yes	5/10-1	U. S. & Can.	C, E-10	Yes	Yes	No	M.V., Op.	No	Yes	No. prov.	
Ohio	I, B, D	Yes	5/10-5	U. S. & Can.	C, E-10	Yes	Yes	No	M.V., Op.	No	Yes	No. prov.	
Oklahoma	I, B, D	Yes	5/10-1	U. S. & Can.	C, E-10	Yes	Yes	No	M.V., Op.	No	Yes	No. prov.	
Oregon	I, B, D	Yes	5/10-1	U. S. & Can.	C-10	Yes	Yes	No	M.V., Op.	No	Yes	No. prov.	
Pennsylvania	I, B, D	Yes	5/10-1	U. S. & Can.	C, E-10	Yes	Yes	No	M.V., Op.	No	Yes	No. prov.	
Rhode Island	I, B, D	Yes	5/10-1	U. S. & Can.	C, E-10	Yes	Yes	No	M.V., Op.	No	Yes	No. prov.	
South Carolina	I, B, D	Yes	5/10-1	U. S. & Can.	C, E-10	Yes	Yes	No	M.V., Op.	No	Yes	No prov.	
South Dakota	I, B	Not	$7000	Not spec	No prov.	No prov.			Not spec	No	No	No. prov.	
Texas	I, B, D	Yes	5/10-5	U. S. & Can.	C, E-5	Yes	Yes	No	M.V, Op.	No	Yes	No. prov.	
Utah	I, B, D	Yes	5/10-1	U. S. & Can.	C, E-10	Yes	Yes	No	M.V., Op.	No	Yes	No. prov.	
Vermont	I, B	No prov.	10/20-2	Not spec.	C-10	No			Not spec.	No	Yes	Yes	
Virginia	I, B, D	Yes	~~5/10-1~~ 10/20/1 → (eff 7/1/55)	U. S. & Can.	C-E-20	Yes (4)	Yes (4)	No	M.V., Op.	No	Yes	No. prov.	(8)
Washington	I, B, D	Yes	5/10-1	U. S. & Can.	C-10	Yes	Yes	No	M.V., Op.	Yes	Yes	No. prov.	
West Virginia	I, B, D	Yes	5/10-1	U. S. & Can.	C, E-10	Yes	Yes	No	M.V., Op.	No	Yes	No. prov.	
Wisconsin	I, B, D	Yes	10/20-5	U. S. & Can.	C, E-10	Yes	Yes	No	M.V., Op.	No	No	No. prov.	
Wyoming	I, B, D	Yes	5/10-1	U. S. & Can.	C, E-10	Yes	Yes	No	M.V., Op.	No	Yes	No. prov.	

†—By decision.

1—Refund of unearned premium required. No provision for notice to Commissioner except as to risks assigned pursuant to law.

2—If certificate specifies expiration date, notice of expiration not required.

3—Also requires notice of intention not to renew.

4—Insurer must deposit security for each policy.

5—Policy need not cover liability to guest occupants.

6—Ten days' notice to insured also required.

7—Policy also to cover operation of motor vehicles not owned by insured if no other insurance available to insured. All policies issued in the state must meet requirements of act.

8—Policy to be marked paid by issuing agent.

CHART VI — MISCELLANEOUS

STATE	Are transfers of registrations after suspension restricted?	Provision requiring operating record to be furnished?	Provision requiring information as to proof to be furnished?	Provisions not covered elsewhere
Alabama	Yes	Yes	No	(2)
Arizona	No	Yes	No	(2)
Arkansas	Yes	Yes	No	(2)
California	No	No	No	(2)
Colorado	Yes	Yes	No	(2)
Connecticut	Yes	Yes	Yes	(2)
Delaware	No	No	No	(1) (2)
Dist. of Col.	No	Yes	Yes	
Florida	No	No	No	(2)
Georgia	Yes	Yes	No	(2)
Hawaii	No	Yes	No	(2)
Idaho	Yes	Yes	No	
Illinois	No	Yes	No	(2)
Indiana	Yes	Yes	No	
Iowa	No	Yes	No	
Kansas	Yes	Yes	No	(2)
Kentucky	Yes	Yes	No	
Louisiana	Yes	Yes	No	(2)
Maine	No	No	No	
Maryland	Yes	No	No	
Massachusetts	No	No	No	(2)
Michigan	No	Yes	No	
Minnesota	No	Yes	No	
Mississippi	No	Yes	No	(2)
Missouri	Yes	Yes	No	(2)
Montana	Yes	Yes	No	(2)
Nebraska	Yes	Yes	No	
Nevada	No	No	No	
New Hampshire	No	No	No	
New Jersey	Yes	Yes	Yes	
New Mexico	No	Yes	No	(2)
New York	Yes	Yes	No	(2)
North Carolina	No	Yes	No	(2)
North Dakota	No	Yes	No	(3)
Ohio	Yes	Yes	No	(2)
Oklahoma	Yes	No	No	(2)
Oregon	Yes	Yes	No	
Pennsylvania	Yes	Yes	No	
Rhode Island	Yes	Yes	No	(2)
South Carolina	No	Yes	No	(2) (4)
South Dakota	No	No	No	(2)
Tennessee	Yes	No	No	(2)
Texas	Yes	Yes	No	(2)
Utah	Yes	No	No	(2)
Vermont	No	Yes	No	
Virginia	Yes	Yes	No	(2)
Washington	No	Yes	Yes	
West Virginia	Yes	Yes	No	
Wisconsin	Yes	Yes	No	(2)
Wyoming	Yes	Yes	No	

1—Nonresidents involved in accidents must furnish security before removal of automobile from State.

2—Provision for assigned risk plan.

3—"Unsatisfied Judgment Fund" pays uncollectible judgments exceeding $300 to limits of $5,000/$10,000.

4—Imposes lien on motor vehicle involved in accident.

CHART VII — CANADIAN LAWS

Amend. to 1953 only.

PROVINCE	ACCIDENTS		CONVICTIONS	JUDGMENTS			UNSATISFIED JUDGMENT FUND			Impounding of motor vehicle	Insurance card to be carried by motorist	OTHER FEATURES
	Requires: Security (S); Proof (P)	Minimum property damage	Applicable to convictions in U. S.	Requires: Satisfaction (S); Proof (P)	Minimum property damage	Applicable to judgments of U. S.	Limits	Minimum judgment	Applicable to hit & run cases			
Alberta	S & P	$75	Yes	S & P	No min.	Yes†	5/10/1	$100	Yes (B. I. only)	Yes (6)	No	(1)
British Columbia	S & P	$100	Yes	S & P	$100	Yes	5/10‡	$100‡	No	Yes	Yes	(1) (2) (5)
Manitoba	S & P	$50	Yes	S & P	$50	Yes	5/10	$100	Yes (B. I. only)	Yes	Yes	(2) (5)
New Brunswick**	S & P	$50	Yes	S & P	$50	Yes†	5/10/1	No min.	Yes (B. L. only)	No	Yes	(1)
Newfoundland	S & P	$100	Yes	S & P	$100	Yes†	5/10/1	$100	No	No	Yes	(1)
Nova Scotia	S & P	$50	Yes	S & P	$50	Yes†	5/10/1	$50	No	No	Yes	(1)
Ontario	P*	No min.	Yes	S & P	No min.	Yes†	5/10/1	No min.	Yes (B. I. only)	No	No	(1) (4)
Prince Edward Is.	No prov.		No	S & P	$50	No	2/4/1	$100	Yes (B. I. only)	Yes (7)	No	
Quebec	No prov.		No prov.	S* & P*	No min.	No	No fund			No	No	
Saskatchewan	P*	$50	Yes	S & P	$50	Yes†	No fund			No	No	(3)

* — Discretionary.

**—Security provisions effective April 1, 1954.

† — Subject to reciprocity provisions.

‡ — Insurance companies have assumed liability for judgments payable out of fund.

1 — Proof may be required before issuing license to person under 21 or over 65.

2 — Proof may be required for any reasonable cause.

3 — Compulsory insurance on the compensation plan, written by Government Insurance Office.

4 — Proof may be required where administrator, having regard to records, deems it desirable.

5 — Licenses and registrations suspended in event of suspension under analogous law in another province or state.

6 — Provision discretionary.

7 — Upon application of injured party. Vehicle released upon deposit of $1000 as security.

MODERATOR DEMPSEY: I am sorry to say that Henry Moser has to leave. Henry, let me ask you this question before you go. Under your suggested program, how are non-car owners and their families protected against injuries caused by financially irresponsible motorists?

MR. MOSER: Jim, under my program in its present form they would not be protected. As indicated both by Mr. Craugh and myself, no solution that any of us can suggest would be complete. I point out to you, however, that taking the situation in New York where you have four million cars registered and an average of 3.4 to a family, that would mean about 13,200,000 people that would be taken care of for injuries, out of a total population of New York of perhaps fifteen million.

The non-car owners and their families, if they had the misfortune of being stricken by the very small percentage of uninsured cars, would, for the moment, not get their claims taken care of. I point out, if it were desired, such coverage could be made available to non-car owners, if they sought that protection. If we solve thirteen-fifteenths of the problem, it seems to me we should be given that opportunity, and then review the situation some years hence to see whether the ingenuity which all of us can apply in the meantime might find some solution to even the small remaining percentage.

MODERATOR DEMPSEY: Thank you very much, Henry. We are sorry you have to leave so soon because I am certain there are other questions we would like to ask of you.

Last, but not least, and as the climax of this, what I trust has been an inspiring program for you, I call on a man well known to all of you who is a practicing attorney with offices in New York and in Washington, D. C., and he has been very, very assiduously devoted in his professional career to insurance matters. At the present time he is Chairman of the Committee on Insurance Law of the American Bar Association and has served on many committees of the Bar Association in his native state. He has been very active in the affairs of this, our International Association.

So, I am happy to call upon, as our concluding panel member, to discuss this subject of "The Lawyer and the Uninsured Motorist," a very active practitioner at the Bar. Mr. James B. Donovan. (Applause)

The Lawyer and the Uninsured Motorist

James B. Donovan
New York, New York

MR. Chairman, Ladies and Gentlemen: My role this afternoon is to attempt to summarize for you the problem that has been discussed this afternoon, along with the proposed solutions that have been presented by the different speakers; also, to try to indicate, what practical importance does this have to the practicing lawyer?

Because of the fact that my talk is essentially a summary of the papers that have been given by those who have preceded me, I know that you will forgive me if I don't appear before you with a prepared address containing many well-turned phrases, but rather if I simply discuss those with the informality that we like to think characterizes conventions of our Association.

First of all, as Mr. Craugh and Mr. Gowan brought out, the primary problem that we are discussing is automobile accidents. That means, in turn, that our first objective must be to attempt to eliminate automobile accidents; in other words, highway safety. Mr. Gowan mentioned the fact that last year 38,000 people were killed and over two million injured on our highways. In an emergency conference for highway safety that was called this winter, President Eisenhower stated that to him the most impressive statistics on this subject were that since automobiles began to run over our highways, more people in the United States have been killed than in all of the wars in which the United States has ever engaged, including the Revolution.

This toll on our highways is staggering. So, first of all, before going to the question

of financial compensation, we should consider the problem of highway safety. It is essentially, in my judgment, a question of law enforcement. You don't need new laws; we simply need the ones we now have properly enforced. It has to be driven home to everyone in the United States that the right to drive an automobile (which is a far more lethal weapon than a gun) is a privilege, it is not an absolute right; and we have to see to it that no one who is unfit to be on the public highways is operating a motor vehicle.

There is no other solution to that problem, and it is of primary importance, and, accordingly, first I do want to suggest to you that in whatever manner you can, not only as members of the legal profession, but also as molders of thought in your community, which all lawyers are, I want to urge upon you that whether through your Bar Associations, your Chambers of Commerce, or otherwise, to the extent to which you can, take some practical steps to try to eliminate and lessen automobile accidents in your community. It would be a tremendous public service.

Turning, however, from that primary problem to the subject of financial loss, which is the subject that Mr. Craugh, Mr. Gowan and Mr. Moser have been discussing this afternoon, first of all, how great a problem is that? In my judgment it has been a tremendously exaggerated problem. It has passed from being a social problem into becoming a purely political dispute.

With over 96 per cent of all motorists insured, and with all kinds of other insurances available to those who are injured, we have found in practical surveys in the Association of the Bar of the City of New York, that most plaintiff's lawyers say today in New York (and I believe this should be true in any state that has had a financial responsibility law for a number of years) that the greatest problem that they encounter is not "no insurance" but "not enough insurance."

In other words, cases are few where a person should be recompensed but there is no means of financial redress available. The major problem encountered is too little insurance in the case of serious accidents.

In any event, while I do not believe its magnitude to be so great, on the other hand, it is a problem and, furthermore, you will find in your state, in the event it is introduced in the political arena, it becomes a tremendously live public question. You will find, as I have, your wife asking you, "Why shouldn't everybody have to carry insurance?" And I can assure you that the answers to that question are not too easy in order to convince an uneducated public, and the public on this question has been largely uneducated.

What can be the solutions to the problem? The most obvious one is compulsory insurance which, on its face, sounds like a panacea. Everyone in the state has to carry insurance, yet it is perfectly demonstrable that that cannot answer the problem; it cannot cover the case of accidents caused by out-of-state motorists; it cannot cover the cases of hit-and-run drivers, of stolen cars, illegal operators, et cetera.

Accordingly, quite apart from that—and I am trying, by the way, to be as factual and as noncontroversial as possible—with respect to the only state in which compulsory insurance has been enacted, the State of Massachusetts, all who are familiar with what has happened there will agree that it has been a sorry mess. It has not answered the problem. It has become a complete political football. Furthermore, it has resulted, we believe, in less true insurance. In other words, prescribing the minimum that must be carried by law seems to tend to have the general public accept that as the amount of insurance they should carry. The figures demonstrate, as a result of that, the percentage of excess limits, the percentage of voluntary medical payments insurance in Massachusetts, fall far under the entire national level.

However, more important, I should like to turn to another aspect of compulsory insurance which has led me to conclude that although its impact has been subtle on the legal profession of the United States, that it is important that you realize that this whole subject we are discussing this afternoon contains probably the greatest potential threat today to the profession of law. I say that in a very considered way. The reason for it is that for the past twenty years we have had a carefully organized minority of social planners who are convinced that the only solution to the automobile litigation problem, the problem of high verdicts, inadequate rates with companies losing money, all of the variations that are involved—the only problem is to enact a compensation system provid-

ing a schedule of benefits absolutely payable, without regard to fault, in the event of automobile accidents.

As recently as 1937 it took a tremendous fight in the New York State Constitutional Convention to defeat a proposed system of liability without fault for all personal injuries, with the elimination of courts and juries and with the application of a fixed schedule of benefits.

I may add, on a very practical basis, that the New York State Bar Association made a survey and attempted to determine what would be the impact on the legal profession in the event that a system of compensation with a schedule of benefits was substituted for our present litigation system. It was their conclusion, in an objective way, that if that occurred, and all plaintiffs' and all defense work were removed from lawyers' offices, that 70 per cent of the law firms, outside the financial district of New York City, of the State, would have to go out of business.

Is this selfish of us to consider such facts? I don't believe it is at all, because I think it is perfectly demonstrable that the continued existence of a strong legal profession in the United States is of vital importance to the general public, and I don't think we should be the slightest bit ashamed to stand up and fight with all our strength anything which constitutes a threat to the existence of our profession in the United States.

Quite apart from that, I think that those of us who have been geared in the structure of the common law, the Bill of Rights and the fact that we are entitled to a trial by jury, should be most reluctant to take any step which would remove from our court system the tremendous value, in upholding the rights of our citizens of the jury system and the right to appear before a court instead of an administrative tribunal.

The automobile situation — and these problems that have been discussed today— are brought directly into your perspective by a recent article in the *New York Times* by Judge Hofstadter of the New York Supreme Court, outlined completely exactly the pattern that I am discussing. According to him, there should be enacted compulsory automobile insurance, the state should be given the power to write automobile insurance, and a system of compensation without fault should also be enacted.

Needless to say, to any of us who have dealt with the practical problems of negligence, any concept of applying a schedule of benefits to the field of automobile accidents, is the most impractical scheme that could be devised. It always interests me that whenever this is proposed, you never see a detailed plan presented of how they are going to deal with the problem of the housewife, the unemployed, the increasingly large number of aged, the children, the distinction between the large and small wage earner, and all of the various other factors which have to be taken into consideration in this field.

Disregarding the fact that we certainly have no compelling reason at the present time to abandon our basic common law concept of no liability without fault, it would be a grave disservice not only to the legal profession but to the best interests of the general public.

Passing, for a moment, from the fact that this is always in the picture and that it has been advocated by very potent groups in very recent times, and you should be aware of it, let me very briefly mention some of the other solutions that have been presented.

Henry Moser has spoken of a solution which New Jersey has adopted. Joe Craugh has pointed out the dangers that are contained in that. He has pointed out the fact that while it can be a proper solution in a state wherein you have, say, 90 per cent insured, on the other hand, in broad terms, if the percentage of insured motorists should drop appreciably, so that you have about 60 or 70 per cent insured, they would be carrying all the others involved.

I don't think, though, it would be appropriate, since you have been so patient this afternoon, for me to review all of the different proposals that have been made, and try to detail or outline the problems that most of them present. All of them do present some problems. However, first of all, the manner in which this entire subject has been handled by the insurance industry as a whole is unfortunate. This is a subject which, whether real or synthetic, is a live public question today. You have large groups of insurance companies advocating one solution; you have large groups of insurance companies advocating other solutions. The sole result to date that I have seen is that all groups are playing into the hands of common enemies whose theory is: "Divide and conquer."

This is an extremely important question and it is one on which all companies should act together.

Lawyers must necessarily look to the companies for informed guidance on this, since it is a highly technical subject. That does not mean that the answers provided by insurance companies are going to be either adopted by the legal profession or by any state legislature. But, on the other hand, certainly an informed judgment should be available from the insurance industry. To date it has not been forthcoming.

The result has been to leave this question in a most unfortunate condition because it has played into the hands of opportunists who have no more use for one group of companies than for the other, and who have simply used this division in ranks for their own purposes. Accordingly, one thing I would hope is that sometime in the near future the insurance executives would adopt a reasonable approach to this entire problem, will reconcile their differences and will provide an answer that is acceptable to the general public.

Meanwhile, to the legal profession, I again say to you, first of all, this is a very important problem of very direct practical interest to you in the practice of your profession. Your first duty must be to be informed on the subject, and you will find that it is surprising the number of people in your community who are not informed on the situation.

Accordingly, I urge upon you that you do inform yourself on the situation, that you weigh the various alternatives. You need not agree. The fact that various companies have disagreed on this question is not only to be expected, but it is wholesome and healthy. There is no one simple answer to this, and it would be ridiculous to assume that all of them must immediately have unanimity. However, I personally believe that the period of discussion is past and the time for united action is here.

With respect to the legal profession, I urge upon you to consider these problems very seriously, that you recognize their direct relationship to you as practicing lawyers, and that you advocate a solution which would be regarded as something not only of great aid to the legal profession but would be fitting in your role as counsel to the community. Thank you very much. (Applause)

MODERATOR DEMPSEY: Just for a few brief moments we might have some questions. There are one or two that I would like to ask some of you panel members.

I would like to ask Mr. Craugh this question. I noticed some of the panel members mentioned the impoundment statute; that is, the impoundment of an automobile. It has been recommended by different groups. Why is it, Mr. Craugh, that up to the present time no state has enacted that impoundment statute?

MR. CRAUGH: Mr. Chairman, there is no doubt that an impoundment statute is a very effective and drastic remedy to encourage motorists who are uninsured to become financially responsible. That has been demonstrated, particularly in the Canadian provinces, and more particularly in the Province of British Columbia, where prior to the enactment of an impoundment statute, only about 33⅓ per cent of the motorists were insured, and within five years after the passage of the impoundment statute in that Province, the number of insured motorists rose to 95 per cent.

There are some difficulties, however, with respect to getting such a bill passed through the legislature. Those states that have a high percentage of tourist travel, for example, are unwilling to enact a law which applies equally to resident motorists and to non-resident motorists. They are fearful of discriminating in favor of the resident motorists, and also discouraging non-resident tourist travel into the states.

It must be admitted that it is a very drastic remedy, and in some cases it may be depriving an uninsured motorist of his means of livelihood. For that reason a great many legislatures are a bit loath to enact a bill which imposes such a drastic remedy even though it might be very efficacious in increasing the number of insured motorists.

MODERATOR DEMPSEY: There is just one more question I would like to ask you, Joe, before you sit down. Has it also been suggested that a financially irresponsible motorist might be found guilty of a misdemeanor?

MR. CRAUGH: Yes, that has been proposed as another means of strengthening the present financial responsibility laws to

increase the penalty under our financial responsibility laws, and perhaps make it a misdemeanor for a person who does not maintain financial responsibility. That hasn't gotten very far, but it has been recommended, and it might be considered among other means of strengthening our present financial responsibility laws. Some of the states have not enacted the security type of financial responsibility laws, and in some states the laws have been in effect for such a short period of time that they have not yet had an opportunity to show how effective they may be in increasing the number of insured motorists.

In some states the model type security financial responsibility law has been whittled down and watered down in certain of its respects. In all of those cases it seems to me that every effort should be made to strengthen them.

MODERATOR DEMPSEY: I would like to ask Mr. Gowan, as long as Mr. Craugh has raised the subject of this model type financial responsibility law, are there some states which have laws that do not conform to the so-called model type financial responsibility laws, and, if so, what is the practical defense?

MR. GOWAN: There are eight states which have not followed the model type of the law, and as a result, we should be watchful for confusion in those states, in distinguishing between an absolute liability case and a voluntary policy case, where policy defenses should be good. Those eight states are Texas—but as I pointed out, the New Mexico Federal District Court felt that the distinction was there and should be followed—Texas, Colorado, Florida, Indiana, Maine, Minnesota, New Hampshire, and Oregon.

So we can watch out for some difficulty in distinguishing between an absolute liability policy and a voluntary policy, where we can raise properly a policy defense, especially if there has been no premium surcharge.

MODERATOR DEMPSEY: May I ask you one more question before you leave the microphone? Has the enactment of the so-called safety security laws had any practical effect on the standard automobile policy provisions?

MR. GOWAN: Yes. As a result of the enactment of the newer type law, and by the operation of good wholesome American competition, the standard policy has been broadened in a great many respects, so that there can be little possibility that you or I, driving our cars around the country in the various states, will not have good protection in the event that the financial responsibility law should come into operation against us. Some of those features briefly are: The automatic coverage for newly acquired or substitute automobiles, the use of trailer coverages; so if we borrow a friend's car and we have a policy on our own car, we don't even ask our friends the embarrasing question of whether they have a policy on their car. We know that our policy will cover the accident if any occurs, and that the duties under the financial responsibility law with regard to security will be carried out by our own policy without additional premium charge.

There is the elimination of the exclusion of claims by a named insured against an additional insured. When I am riding in my own car and a friend is driving, if the friend has an accident through his negligence, I can sue my friend, and my friend receives the protection necessary under the financial responsibility law even though he may have no policy on his own car.

The famous Condition 4 or Condition 6 are known as the financial responsibility conformity clause, and were added to the policy directly due to the financial responsibility laws, and the trouble is New Hampshire and New Jersey have applied those conditions mistakenly to cases which, as I have pointed out, are not certified policies, and that is not the intention of the conditions. They only apply to cases which come under the financial responsibility law.

There is the inclusion of spouses as insured under the policy, without naming the spouse; also, any person or organization responsible for the use of the automobile, with the permission of the insured—that's the standard omnibus clause—it has been broadened. You now have named non-owner policies which now include the spouse. The named insured operator and his wife are covered.

MODERATOR DEMPSEY: Thank you very much. There is one last question I would like to ask. Is there, in your opinion, a concerted effort to enact some similar legislation in the different states, and if so, how do you suggest we combat it? I would like Jim Donovan to answer this question.

MR. DONOVAN: First of all, as to whether or not there is a powerful, organized group with that objective, my answer would be definitely "yes," whether or not you have encountered it in your communities. I am familiar with it solely in the State of New York and in the District of Columbia. In the District of Columbia, while the tendency very recently has been somewhat in another direction, for a considerable time the effort in that direction did not lie toward state funds or extending the compensation system on the state level, but rather in further extensions of the Federal Security system. There is no question but that a substantial group did have in mind the extension of Federal Security to attempt to cover, without regard to fault, innumerable cases of this kind which today would be litigated on common law principles.

With respect to New York, which I have watched for some years, strangely enough the proposals of this nature do not come simply from economists and social planners, but from within the Bar itself. It is, of course, true that in very large metropolitan centers you have a rather different Bar from what you would have in smaller communities. However, I can tell you that as a resident of New York, and as the Chairman of the Committee on Insurance Law of the Association of the Bar of the City of New York, I have gotten very tired of watching Wall Street lawyers, who spend their entire career trying to put registrations through the S.E.C. and similar work, then come to the Association of the Bar and be holier than thou about any aspect of the whole field of negligence.

I have lived through this; I have had to fight that kind of mentality, and they know nothing of the problems. The lawyers I am talking about, in the event an injured person came to them to obtain legal redress, they would not know where the court house was.

On the other hand, they think nothing whatsoever of declaiming on the subject of abolishing all laws of negligence, and substituting an administrative system which they, in their wisdom, would devise.

So, at least in large metropolitan centers, I find that through a powerful but ignorant minority of the Bar, that there does exist very definite pressure of this kind. All that I say to you is that you should be aware of its existence, you should be aware of its effect on the entire legal profession, and you should make certain that the general public is not misled by turning in their present opportunity to obtain legal redress in return for a mess of pottage dished out to them at the hand of some kind of politically controlled public agency. (Applause)

MODERATOR DEMPSEY: I am afraid, due to the lateness of the hour, I cannot ask for questions from the floor, except to say this: If any of you here today wish to ask the panel members any questions, I am sure they will be available, and that can be done before the convention ends.

May I, at this time, thank the members of the panel for the great effort that they have given to their prepared papers and their splendid addresses here this afternoon.

May I thank you, ladies and gentlemen, for foregoing the great pleasures on the outside and participating in this discussion.

Perhaps I can conclude with a story which will take me only a minute about the colored lady who had her husband in court and it developed, of course, that he was a shiftless fellow who would do nothing at all, and finally the judge looked down over the bench, and said, "How is it that you go to work and you slave as you do, and that worthless, good-for-nothing husband of yours simply sits around, and you allow him to do it?"

"Well," she said, "Judge, it's this way. I makes the living, but he makes the living worthwhile." (Laughter)

So perhaps a Forum with a discussion like this makes a convention worthwhile. Thank you very much for your attention. (Applause)

MR. BAILE: The meeting is adjourned.

(The Open Forum adjourned at four-fifty o'clock.)

SATURDAY MORNING SESSION
July 10, 1954

The final session of the convention reconvened in the North Wing Auditorium at nine-fifty o'clock, President Gooch presiding.

PRESIDENT GOOCH: The Saturday Morning Session is now in order. As indicated by the program, the first part will be devoted to awarding prizes to our athletes. Most of our athletes have done their athletics indoors, but some of them, I understand, braved the sunshine and did go forth to conquer.

Ernie Fields, are you here? Ernie, come on up, please. At this time I would like to present Ernie Fields, Vice-Chairman of the Entertainment Committee, in charge of outdoor activities. Ernie! (Applause)

MR. ERNEST W. FIELDS: Mr. President, Ladies and Gentlemen: As with everything else at this convention, we had the biggest of everything in all events. Instead of following some practices of before and calling the people up and giving them the prizes, some people were leaving, and we have already handed out the prizes, and we will read off the list of the winners.

The first is the bridge and canasta winners, Mrs. Shackleford, Chairman of the Committee. The winner of the first prize is Mrs. W. H. Norton, of Huntington, West Virginia, an RCA portable radio. Mrs. Peter Reed, of Cleveland, Ohio, a picnic set. Mrs. John Wicker, of Richmond, Virginia, American Tourist 21″ Overnighter. Mrs. R. C. Morris, of Cleveland, a ladies' leather bag. Mrs. John Dalton, of Jefferson City, Missouri, a leather bag. Mrs. Stanley Morris, of Charleston, West Virginia, a hat bag. Mrs. L. G. Muse, of Fincastle, Virginia, a golf shoe bag.

Mixed up with the ladies' prizes were a couple of little leather cases. One of the chairmen wrote me a letter during the winter and said could I get some feminine presents. So on the list they handed me, it says "One man's shaving kit." (Laughter) Actually, that case goes with the little radio. So, to Mrs. Edward Schroeder, instead of a man's shaving kit, four glasses with Pebble Beach Golf Club on them, of all things! And for Mrs. S. M. Chilcote, of Pitssburgh, four glasses.

Now for the men's bridge and canasta, Alex Rogoski, Chairman—first, John D. Andrews, an efficiency case. Second, George Heneghan, a radio. Third, Cameron Buchanan, a traveling clock; and fourth, J. Howard Gongwer, a golf clothes bag. The only canasta prize-winner is Jimmie Fellers of Oklahoma City, something Jimmie will never use—a bar set. (Laughter)

For the ladies' golf, Edith Dodd and Madeleine Cull were the Co-Chairmen of the Committee. Edith is a busy lady, sixteen hours a day, running the State of Michigan Ladies' Golf Tournament. She flew down especially to help on this and to play in it, and she left last night. Madeleine Cull of Cleveland has taken over all the details, has run it completely, and has done a beautiful job. I am going to ask Mareleine to come up and tell who won her tournament. Mrs. Cull, will you come up, please, Ma'am?

MRS. MADELEINE CULL: Mr. President, Members of the Association and all the Guests: First, I would like very much to thank the President and all of the men for making it possible for us to have such a wonderful, wonderful golf tournament, and especially Mr. Fields for his excellent selection of golf prizes. There is no criticism there. And, for his willingness to listen to all my complaints. Then thanks to the Committee I worked with, and especially a non-member of the committee, Lena Carey, who sat with me all morning long and just kept the ball rolling.

I am very happy now to announce the winners of the golf tournament. Our first low gross, Mrs. Dan McGugin, Jr. Second low gross, Mrs. C. B. Arendall. First low net, Mrs. Robert Lawson. Second low net, Mrs. E. B. McCahan. The low putts, Mrs. Wilson Anderson. For the best short holes, Mrs. Welborn Cody. And then the golfers that we were so glad to have come out, our beginners, for high score, Mrs. D. Rogoski.

Thank you very, very much. (Applause)

MR. FIELDS: And now to the men. We had 164 golf players, the largest in the history of the organization. For low gross, a 70, Robert Fraser of Omaha, Nebraska. To Bob, with whom I played and lost every possible way, even though he gave me a stroke a hole, goes the King Cup, donated by Charlie King, of, shall I say, retail credit, Hooper Holmes—and Bob, if he wins this cup two more times, will keep it. And, also, to Robert Fraser for shooting the best score, goes a set of four Spaulding woods.

Second low gross, a 75, is Sam (Kit) Carson, of Miami, an efficiency case. Sam was the winner of the low last year. This year we gave him a briefcase to carry his papers around, figuring that next year he would be about fifth if he used the briefcase.

Third low gross, a 76, T. P. Kelly, a golf clothes bag. Fourth low gross, a gentleman we are delighted to have with us, a gentleman we are delighted to have a winner, Roderick Phelan of Canada, a picnic set.

Now to the low net. We used the Peoria System, as you probably know, and the winner of the low net, a 70, Lee Bradford, of Miami, Florida, a set of four Spaulding woods.

Second low net, of the Golfing Mc-

Gugins, Dan McGugin, Jr., a golf bag. Third low net, a 72, Will Sadler, a radio. Fourth low net, J. H. Searl, a bar set. Fifth low net, another gentleman from Canada, Beverley Elliot, a No. 5 wood. Sixth low net, Robert Hobson, a sandwedge from the Kentucky blue grass. Seventh low net, John Rodman, a rain jacket. Eighth low net, Joseph Stewart, a rain jacket. Ninth low net, R. S. McKenzie, a putter. Tenth low net, Fred Parcher, an umbrella. Eleventh low net, J. O'Mara, a rain jacket. Twelfth low net, Bill O'Bryan, a rain jacket. I have an interest in the company that manufactures these things.

Thirteenth low net, six gold balls, Evans Dunn. Fourteenth low net, Wilder Lucas, six golf balls. Fifteenth low net, six golf balls—I understand he put four of them already in the lake. Al Christovich, Sr. And, last, six golf balls, W. B. Mangin.

Mr. President, I have the honor of reporting to you that the Ladies' and Gentlemen's Golf Tournaments have been concluded. We thank you all for your splendid cooperation. (Applause)

PRESIDENT GOOCH: Thank you, Ernie, for a job well done. At this time may I thank everybody who nelped make this convention a very memorial occasion.

You will notice that the clock says ten o'clock. You will notice, too, that the program said nine o'clock. Well, it's nine o'clock in Fort Worth, so we are just exactly on time (Laughter)

We have, as you know, two great speakers here today. I have asked our good friend, the Treasurer, Charlie Pledger, to introduce our first speaker. Charlie Pledger has been a member of this organization for a long time, therefore, I shall not bother to go into his past history, except to say, Charlie, come on up! (Applause)

MR. PLEDGER:

Mr. President, Ladies and Gentlemen:

It is my personal privilege to introduce the next speaker. I have known him since my admission to the Bar in 1927. I cherish his friendship.

Hs is a native Washingtonian. He received his LL.B. degree from Georgetown University in 1913. Shortly thereafter, he entered the employ of the Justice Department as a confidential clerk to the United States Attorney General, Thomas W. Gregory. In 1917, he joined the Army and remained in the Military Service until 1919, when he was separated as a Captain.

From 1919 to 1921, he was a Special Assistant United States Attorney General; he practiced law in the District of Columbia until 1934; he served as Chief Assistant United States Attorney for the District of Columbia for four years and then became the United States Attorney for the District of Columbia.

In 1940, he was elevated to the Bench of the United States District Court for the District of Columbia. As a Judge of that Court, he had the case of the steel owners against government seizure of their plants and ruled, on April 29, 1952, that the presidential order authorizing the emergency measure was unconstitutional and granted the steel mills a temporary injunction against the seizure.* His decision was described by the New York *Times* as "the most precise and firmest restraints on executive power that have been stated by a Federal Court in our history." In judging the steel seizure an unconstitutional act, he became, in the words of the United States News, "the first modern jurist to draw a line firmly limiting the powers of the President in time of peace."

It is my pleasure to give you at this time a successful practicing lawyer, a fearless but fair prosecuting attorney, a distinguished jurist, a gentleman with a sense of humor and a grand individual—Honorable David Andrew Pine, Judge, United States District Court for the District of Columbia.

**Youngstown Sheet & Tube Co., et al. v. Sawyer, Secretary of Commerce,* 103 F. Supp. 569.

A Neutral Observer Looks at Insurance and Hoists a Danger Signal

Honorable David A. Pine, *Judge*
United States District Court for the District of Columbia
Washington, D. C.

MR. Treasurer, Mr. President, whose labors will soon cease, his term of office having nearly expired—Mr. President-Elect, Dr. Gaines, Ladies and Gentlemen, Rugged Individuals: I say you are rugged because I don't know how so many of you are able to be here this morning after the activities of last night. I think that you are all good insurance risks.

I felt yesterday that I would be a casualty. I was invited to attend some preprandial activities, and after that I went to the Casino where I overestimated my capacity at the buffet luncheon, but I had to keep on my feet. As the lady who preceded me said, "I had to keep the ball rolling," and I continued until rather late last night. I thought, then, that I would get some well-merited rest, but unhappily I was two doors from Old White, and I discovered, although I was in my room, I was joining in the festivities at Old White. (Laughter)

After that the C & O Railroad started its usual schedule, and after two nights here I know when the freight trains arrive and when the passenger trains arrive. (Laughter)

I am very grateful to be here. I am a little unhappy that Charlies Pledger had to uncover to you my vintage, because I was hoping that my youthful appearance might deceive you. (Laughter) But after his very generous introduction and your extravagant applause, and your royal hospitality, I began to doubt whether or not I could live up to my billing, particularly as to the title which says, "A Neutral Observer Looks at Insurance." I don't know that I can now be "neutral," because you have treated Mrs. Pine and myself so royally ever since we have been here, and we are deeply grateful.

But if I cannot be neutral, I will render a nunc pro tunc decision as though I had not arrived here until this morning, and I think that is in keeping with the present trends, because I understand that the law is apt to change when there are changed conditions. If you have read the recent opinions, you may have observed that. (Laughter)

I thought that there was a little inclement weather in the insurance world, and I thought it might be wise to hoist a danger signal here, but after two days with the sun shining, the clouds are moving away, and I don't know whether I need to hoist a danger signal.

But, inasmuch as I have been advertised to do that, I shall proceed to do so. Your very successful almost-ex-President, the distinguished gentleman from Texas, invited me verbally after Mr. Pledger had invited me verbally, and I still was a little afraid of the statute of frauds, so I saw to it that I got a written invitation. Of course, there was some part-performance, because I started on my speech. This was ten months ago—oh, no, in May of 1953. And then, in March of 1954, I received this letter from Mr. Gooch commencing as follows:

"International Association of Insurance Counsel. March 10, 1954. Dear Judge: Perhaps you have never heard of the International Association of Insurance Counsel, but it has been in existence for more than twenty-five years, and is extremely interested in insurance litigation."

And then he goes on to tell me he is sending a copy of your Journal.

Now, when I received that letter, I didn't know whether that was his subtle way—knowing him to be a very subtle man, about as subtle as a meat axe (laughter)—of rescinding the invitation. But as long as I had it in writing, I came nevertheless, and here I am. I have since been informed that it was a form letter to all judges.

Insurance has been defined as a practical device by which civilized man protects himself against the adverse contingencies of life. One of these contingencies arises when he is required to listen to a convention speech, particularly at this hour of the morning, and, yet, there is no insurance to protect against it.

I do not subscribe to the view, attributed to some, that it is a fate worse than death,

but I do concede that it causes acute suffering, and I have often speculated on the failure of the underwriters to insure against the ravages to mind and body when such a misfortune occurs. To me, this appears to be a fruitful, untapped source of insurance. Its potential is gloriously apparent, because exposure to the hazard is becoming almost universal, and the supply of public speakers appears to be inexhaustible.

Just to show you, I will relate an experience and I can call witnesses. Last night, when I was on my way to the International Follies, so-called, trying to get oriented and find the place, I stopped for a moment at one of the turns. Two gentlemen walking in the other direction, whom I had never seen before—and, I hope, had never seen me—were talking, and I heard so much of their conversation: One said, "Why, you are certainly going to stay to hear Judge Pine tomorrow, aren't you?"

The other said, "No, sir, I can't take it!" (Laughter)

An unlimited, virgin field is waiting for the golden harvest. Of course, full coverage for all damage would be prohibitive, for that would require insurance against a speaker speaking, which is a Utopian ideal; but it occurs to me that there must be a practical plan which could be devised, for example, a fifteen-minute deductible policy (laughter), that is, insurance payable after fifteen minutes of speaking and an extra bonus if the speech exceeded thirty minutes. What a boon to mankind that would be!

Consider the healing effects on brain tissue and the curative psychic value which would stem from the assurance of compensation if required to listen to a speech of more than fifteen minutes duration. It would be well worth the premium, even though high. Of course, it might encourage spurious applause, if the speaker seemed disposed to stop just before the fifteen-minute deadline, but that could be guarded against by a rider, I suppose.

Think what it would mean to judges whose daily life is devoted to listening to lawyers, but no reflection, I am fearful that their occupation would be considered so extra-hazardous as to exclude them from protection—not even a sixty-minute deductible policy. It is this occupation, I suppose, that makes judges so sadistic in their nature, because when a judge gets a chance to speak to lawyers, instead of being required to listen to them, he never hesitates, but steps forward and administers punishment with a hearty will and smites them hip and thigh.

For example, I accepted this invitation in May of 1953, fourteen months ago, and have been living in lively anticipation of this hour ever since. Let me hasten to assure you that the word "hour" was inadvertent. Of course, in extending to me an invitation so far in advance, your genial Treasurer and my friend of many years, Charles E. Pledger, Jr., maintained the tradition of the insurance world to look far ahead to the future, no matter how gloomy, but I also wish him to know that I am not insensitive to his subtle flattery. Only someone like Marilyn Monroe would have to be booked that far in advance.

I had intended to compare this gathering with those of the late seventeenth century, when the underwriters and sea-faring men met together in the coffee house in Lombard Street, but as I gaze upon these sumptuous and regal surroundings, I am afraid that it would tax your imagination if I rested my case on physical similarity alone.

But there is a spiritual similarity, and I am not using "spiritual" in the technical sense, between the gatherings, if not in the surroundings. Of course, the coffee house gatherings were composed primarily of underwriters and their customers, and the primary purpose was to underwrite risks, whereas this gathering is primarily composed of the underwriters' counsel and some of their clients, and the primary purpose seems to be fun and frolic, with a very strong antidote of speech making.

But, jest aside, you are gathered together, as were your predecessors at Lloyd's, for the purpose of carrying forward a great cooperative concept, a concept by which a large number of persons are united to make certain that loss which, by the law of averages, will befall a few, will be shared by all. That is the concept of insurance, and it is a noble one.

Who thought this concept through is unknown to history. It probably was the result of experience from small beginnings, but it is one of the great forward movements in social betterment.

You, as were your perdecessors, are here to compare ideas and views and formulate plans to the end that this business of insurance may progress onward and upward

to greater heights, to the inestimable benefit of mankind. And, as insurance counsel, you have the heavy responsibility of making certain that it continue as a tool for improving the conditions of men by making them more secure and by taking some of the risk out of life's uncertainties.

I know what great joy it always gave me when I was able to take out a little additional life insurance. It gave me that satisfied feeling that if anything should happen to me, there would be something more to take care of my loved ones.

Without throwing boomerang bouquets at our profession, it is my considered judgment that the role of the lawyer in the insurance field is of vital importance at this time. It is a time of unrest and change which probably affects the business, home, health, or life of every citizen of this country in some degree, and I am of the view that unless this business is managed in the public interest and for the public good, it will either not survive as part of the free enterprise system or will be subject to extensive additional regulation on a national scale. And it is the duty and responsibility of the lawyers representing this mammoth business to advise and counsel along lines which will remove it from just criticism and complaint.

By the influence of their courage, judgment, vision and integrity, they can resist this threat and place the business above reproach, to the end that its tradition for social betterment not only remains unimpaired, but rises to greater heights, within the ambit of our free system.

History teaches the wisdom of my admonition. As you well know, insurance reaches back into antiquity and at first was concerned with marine losses. Until comparatively recent times, it was unregulated by public officials or public laws, but was controlled by general principles of justice and equity growing out of the usages of merchants. What a wonderful ideal to perpetuate, but the abmonition I am giving today was either not given or it went unheeded during the last century.

The business of insurance during that period reached out into countless areas, and assumed huge proportions, and with its diversification and growth, came abuses and misconduct. The principles of equity and justice, which are so hard to define but which are so well known in the hearts of men of good will, were forgotten, with the result that, beginning in about 1850, laws appeared on the statute books of the states looking to the regulation and control of the business of insurance.

This was because its operation was detrimental to the public, and it did not correct its own misconduct. Such laws continued to be enacted, and now in every state of the union, I believe, the business of insurance is regulated and controlled to a greater or lesser degree, and with a greater or lesser degree of efficiency and responsiveness to the public welfare. Perhaps the size and the complexity of the business were partly responsible, and unrestrained competition might have resulted in chaos. Also, laissez faire was no longer sacrosanct, as it once was, but the motivation for public control was the public interest which had been injured and which, in a democracy, is bound to be served in the long run.

And now to turn to relatively recent history, as bearing on my admonition to guard well the public interest, if you would preserve your own. That is putting it selfishly, but man being what he is, an argument based on self-interest usually receives respectful consideration. Although insurance has been regulated by state laws for the period I have mentioned, the Federal Government has not specifically entered the field of regulation.

That was doubtless due to the famous case of *Paul v. Virginia,* decided by the Supreme Court of the United States in 1869, holding that the issuance of a policy of insurance was not commerce. Not being commerce, it could not be interstate commerce, and Congress probably reasoned that it was without constitutional power to regulate it under the granted power to regulate commerce among the states. You know, Congress is sometimes more sensitive to its constitutional limitations than the executive on occasions, as your Treasurer pointed out.

But abuses on a national scale apparently arose, because over ten years ago an Underwriters Association and its membership of nearly two hundred private stock insurance companies and twenty-seven individuals were indicted for alleged violations of the Sherman Law. The indictment alleged conspiracies to restrain interstate commerce by fixing arbitrary and noncompetitive fire insurance premium rates in a number of states and to monopolize trade and commerce in that field of insurance.

Boycotts and other types of coercion and intimidation were also charged. Of course, the defense was that the defendants were not amenable to the Sherman Law, not being engaged in commerce, but the Supreme Court of the United States held, in 1944, notwithstanding *Paul v. Virginia,* that defendants were engaged in interstate commerce and were subject to the provisions of the Sherman Law.

This led to grave and serious uncertainties and concern with respect to the validity of state laws as well as state regulatory provisions, resulting in Congress enacting a statute in 1945—under the leadership, I think, of Senator McCarran, who was then Chairman of the Senate Judiciary Committee—declaring among other things that continued regulation and taxation by the states of the business of insurance is in the public interest, and providing that the business of insurance shall be subject to the laws of the states, that no act of Congress shall be construed to invalidate or impair any law enacted by a state for the purpose of regulating the business of insurance unless such act specifically relates to the business of insurance, and that after June, 1948 the Sherman Law, the Clayton Act, and the Federal Trade Commission Act shall be applicable to the business of insurance to the extent that such business is not regulated by state law, and that until that date such acts shall not apply to the business of insurance, but that nothing contained in the Act shall render the Sherman Law inapplicable to any agreement to boycott, coerce, or intimidate.

Of course, this is recent history; it is probably familiar to all of you, but it points up the moral of my piece, which might also be expressed colloquially as "Watch your step," if you would avoid destruction of the business as you now know it. It has now been held by the highest court of the land that Congress has the power to regulate you, if not to seize you, if you want to use a word which has an odious connotation to me.

There is another item which deserves comment, I think, because it is a source of much friction on the part of the public. And this is another danger signal as I see it. It is the almost unintelligible character of some of the contracts of insurance. Frankly, they contain what I think is so much mumbo-jumbo, references back and forth, and qualifications, if not double talk, that they destroy good will and public confidence when it is necessary to read one.

Of course, the average policy holder never reads the policy. Some lawyer does it for him when a loss occurs and tells him what he cannot do and what he cannot recover, and that destroys good will and public confidence. I believe there is no reason why insurance policies cannot be simple, clear, and straightforward. If you will pardon a personal reference, may I tell you of an experience of mine?

I represented a newly organized insurance company back in the twenties, and the dominant figure in that company was a man of iconoclastic turn of mind. He directed me to prepare a short, simple, and easily understood policy for use by his company. Think of it! When I exhibited unconscious surprise that anyone should entertain such subsersive ideas, he told me it was that kind of policy or else, which I interpreted to mean someone else would be counsel.

I didn't want that to happen, and lo! and behold, I prepared some forms which, at least, came close to his specification. Just to show how awful some of the policies can be, let me call your attention to the case of *Calmar Steamship Corporation v. Scott, et al,* decided by the Supreme Court year before last.

Therein the court stated that the policy was assembled by superimposing on the age-old Lloyd form, layer upon layer of warranties and riders, the warranties freeing the underwriters from obligations imposed by the riders, and subsequent riders reimposing obligations thus avoided, and then the court used the following critical language concerning the verbiage of the policy: "Construing such conglomerate provisions requires a skill not unlike that called for in the decipherment of obscure palimpsest texts." That's harsh, but it seems to me deserved in some instances.

Lastly, let me add one more suggestion. To be sure. I am an outsider, and you may think I am presumptuous to tell you of your shortcomings because of lack of expertise, which is a term I dislike because it is so often misapplied. But I hope you will make allowances for me in making these criticisms which, I hope, are constructive, and I can be rather free about it because I know I shall never be invited again. but I may, perchance, be able to find the pulse of the public more quickly than those who are close to the subject.

My last suggestion has to do with adjustments. To epitomize, I urge you to put into the adjustment department the same spirit of friendly interest and cooperation that is found in the soliciting department. (Laughter) Of course, that spirit has to be in the soliciting department or you will not get the business. I believe it has to be in the adjustment department, or in time you will be out of business.

I hope you did not expect a dissertation on the Constitution, which was urged upon me by your President, and I was sorely tempted, because when you speak on the Constitution, you have, so to speak, a captive audience. They have the same feeling, when someone speaks on the Constitution, as when the Star Spangled Banner is played—they feel they have to stay rigidly at attention until the dissertation has been concluded. And, also, it gives the speaker a scholarly aroma to speak on the Constitution and takes him away from the sordid affairs of law suits and court houses. And I preside in a court which has its sordid side. You know our jurisdiction is unbelievably extensive. We have Federal jurisdiction, and we have ordinary State Court jurisdiction. We are a Probate Court; we are a Divorce Court; we are almost everything else you can think of jurisdictionally. It is a diversified field of activity, and I would like to give one example in this connection that just occurred to me, because it does point this up.

In the District of Columbia, a common law marriage is just as valid as a ceremonial one, and that gives great leeway and also creates many problems. (Laughter)

I had a maintenance case come before me recently involving a common law marriage. The plaintiff's lawyer, representing the alleged wife, said that he was prepared to prove these facts: Plaintiff had gone to Meridian Hill Park with the defendant one evening where he asked her to marry him, and she accepted his proposal. He said that he did not believe in ceremonial weddings, and had some conscientious scruples against them. He then placed a ring on her finger and said, "I declare you to be my wife." And she said, "I declare you to be my husband." Thereafter, they lived together, and he held her out as his wife, and she held him out as her husband.

That makes a common law marriage if proved. The defendant's attorney, however, said he was prepared to prove that those things did not happen, and that the relationship was purely meretricious. That seemed to present only a factual issue, which Judges like to have because then they are never vexed by any question of law. (Laughter) Of course, counsel like to have a question of law tucked away because that gives them a chance to appeal, but judges are always happy when it is a pure question of fact. Then they can decide as they think justice requires, unhampered by law. (Laughter)

So the plaintiff took the stand, and she testified about as counsel had indicated, and she brought several witnesses who testified that they had called on the parties and had been with them on social occasions, and that she was held out as his wife. Of course, she also testified that he had failed to support her after a few months.

The defendant then took the stand and, after stating his name and address, corroborated her completely. All the things that she said, he confirmed. His counsel was aghast and said, "Your Honor, I claim surprise."

I said that I was surprised that he was claiming surprise that his client testified differently from what he had expected, and that I didn't see how he could make that technical point and repudiate his client.

"Well," he said, "aside from the law, I'm surprised in fact, because that isn't what he told me." And as we were having a little colloquy as to whether surprise could be claimed when the client testified differently from what his counsel expected, the defendant still on the witness stand said, "Your Honor, let me clear all this up, will you?"

I was very happy to have him do so if he could; so I said, "Certainly."

He said, "Your Honor, I have a common law marriage. All I want is a common law divorce." (Applause)

Well, as I say, I hope you didn't expect a dissertation on the Constitution. I felt that what I have said to you seemed more appropriate. I don't have to urge you to revere that great document and stand against its piecemeal erosion, which is the great basic danger, as I see it, to our way of life, and which is the lesson I have preached to other groups; but I thought I would do more good in preserving that way of life if, in this instance, I hoisted danger signals having individual application to this great and important business which is

the symbol and a concomitant of that way of life which we all want to preserve. Thank you very much.

(The audience rose and applauded.)

PRESIDENT GOOCH: Judge Pine referred to me as being subtle as a meat axe. I have tried to read subtility into the Judge's talk. He alluded two or three times to changing conditions. All I can say is, with my usual subtility, I wish you were on the Supreme Court of the United States. (Applause)

PRESIDENT GOOCH:

Ladies and Gentlemen: I would like to tell you people—I am sure you are interested—that at this Convention we have registration totalling 893 persons. (Applause)

Incidentally, may I, at this time, thank the Greenbrier. They started by saying they could accommodate 650. We kept on ding-donging at them and John Kluwin came down here and begged them some more, and finally, as a very, very nice gesture on their part, they put all 893 under the main tent.

The next speaker is one we have heard before. We heard him in 1950. At that time he spoke under extreme difficulties as he had injured his hand the evening before. Lord knows, if he can do as well today as he did that time, I think we've got something coming.

I have selfishly appointed myself to introduce the next speaker. You will not have to put up with me much longer, so there's not a lot you can do about it.

Dr. Francis P. Gaines is President of Washington and Lee University. Dr. Francis P. Gaines, in my opinion, is one of the real Americans. He is a scholar, he is a leader, he is an educator, and above all, if I may speak territorially for just one second, a true Southern gentleman.

Dr. Francis P. Gaines, are you here?

(The audience rose and applauded.)

Beyond Our Dreams

Dr. Francis P. Gaines
President of Washington and Lee University
Lexington, Virginia

MR. PRESIDENT, Ladies and Gentlemen: I am greatly honored to come once more before this distinguished gathering. I fervently hope it is not the same speech, though no doubt you would have forgotten it.

If I may be forgiven a personal reference—and a most happy personal reference—I shall confess, with some pride, that as I entered the twenty-fifth year of my present task, the generous alumni of that institution gave me a new automobile. Inasmuch as I live in General Lee's house, they thoughtfully gave me a Lincoln automobile to show that the war between the states is over. (Applause)

While I was feeling enormously good about it all, a cynical alumnus said to me, "Now, we've started a tradition. Every twenty-five years we give you a new automobile." (Laughter) "And every twenty-five years you get up a new speech." (Laughter)

This speech will certainly not be in your realm of endeavor. I was told of a simple country fellow down south whose only mode of transportation was a mule and buggy. One Saturday afternoon he went to the county seat and was so late coming home that his wife was alarmed, and when her alarm had subsided and it went into somewhat natural irritation, she wanted to know what kept him.

He said, "Well, Honey, on the way back I run across a preacher, and I had to give him a lift. And as long as the preacher was in the buggy, that mule couldn't understand a word I said to him." (Laughter)

I do not understand your jargon and even if I did, after such an address as Judge Pine's, you would not need it.

I am reminded of a story about a little boy down in Alabama who had a monumental passion for molasses. Down in the cellar—or the basement as they called it—there was a barrel of molasses, and the little boy had the furtive little way of running down and sticking his finger in, and removing it from his finger as little boys might. The level of molasses got lower and

lower and he had to get a stool to reach his finger down, and once as he was getting off the stool, the stool gave way, he clutched at the barrel and turned the whole barrel of molasses over.

At that point I was informed he made this speaker's prayer—he said, "O Lord! make my mouth equal to this great opportunity." (Laughter)

I go from your field of work to my field of work, believing that you are deeply interested in that. My work, as every college man's work, is to live with a group of young people for a little while, but oh, for such a significant while, the gifted and the promising ones whom we serve as they move on to the fulfillment of dreams. They ask the same questions as you and I asked when we were boys: "What is the color, the texture, and the dimension of my dream? My dream of romance? My dream of a job? My dream of a profession? My dream of a chance to live impressively and influentially for my generation?"

They ask the same questions, the timeless questions, but there is something of a difference at that point. I am reminded of one more story. I'll get through with these stories in a minute. (Laughter)

A distinguished business man was visiting his alma mater. He had been a complete success. He was a protege of the Professor of Economics, and the Professor of Economics was showing him about the place, and it happened to be examination time.

The business man said, "Professor, could I see some of those questions just to see whether I could answer a single question on the examination I passed thirty years ago?"

The Professor said, "Certainly, here's a mimeographed copy."

The business man looked at it with some surprise, and some dismay, and then he said, "Professor, if I'm not mistaken, these are the same questions I had thirty years ago."

The Professor said, "They are."

The man said, "Now, look here, I don't want to criticize your teaching, of course, but don't you think that's rather bad business. The students won't study the books or listen to the lectures if you give the same questions every year. They will keep them in the dormitory, the fraternity house, for someone else to study the questions."

The Professor looked at him with some scorn and said, "My friend, you do not understand the situation at all. In economics we never change the questions. We simply change the answers." (Laughter)

These are the timeless questions that are being asked, but there are answers brought to those boys and those girls that you and I did not know, the answers that come from circumstances far beyond their control. The impact of an unpredictable and somewhat ominous destiny is upon them; because they know that forces beyond the dimension of their dream will give them, at best, some direction and some rearrangement, and, at worst, God knows what.

Our best work today is to battle to try to help these boys—and I may say, girls; let me use the generic "boy" and get that over with—in the fulfillment of a dream, and lead them to understand, if we can, that there are motives of life not only more mandatory, but far more rewarding than the dream within their own heart.

I think these remarks derive from a sentence that I read in a statement that Dr. Freeman made about Washington. He said —and, as far as I know, I can agree with him—that Washington had one commanding dream in his heart all of his life. He wanted to be a farmer; that's all he wanted, and sit on his beautiful porch and watch the great Potomac flow gracefully away, and live with growing things, with his animals, and note the pageantry of the seasons, and enter into the excitement of the weather; and, perhaps most of all, with his own experimenting genius, seek to wrest more fruitful cooperation from Mother Nature.

But Washington, we may say, never realized his dream. For two long wars he was in the service of the cause he cherished, including the dreadfulness and bitterness of Valley Forge, and not in his country home, and for long years in the constitutional conventions, and through presidencies that were the subject of much criticism, Washington was engaged in affairs of state.

Did you know he came back to enter into his dream just in time to die before it could be fulfilled in his life? There was a great dream deferred, and deferred because there was a motive in his life that was greater than his dream.

If I may refer in this group to my patron saint, I will remind you that Robert E. Lee had a dream. He was leading an army and he had a dream of victorious war, and a dream of a new nation of his own people who would be established. In-

stead of seeing his dream come true, he met defeat, I suppose, as complete as any man ever did. He surrendered an army in an open field, and in surrendering that army, he surrendered that nation whose hope had been invested in that army, and he lost his position, and he lost his profession, and he had already lost his property; and he lost his citizenship. He was to die five years later, still an "displaced" citizen, a paroled prisoner of war, and his dream was shattered into bits, never to be recaptured again.

But he came westward to the campus of a small college, and there, I like to believe, he became not only a magnificent example of greatness in defeat, but he made certain contributions to both sections of this country that perhaps he never would have made if he had been the victor instead of the vanquished at Appomattox; a dream completedly defeated and yet a motive of life that can lift a man above the shattered fragments of his dream into a new scope of amibition and aspiration, and into a new power of achievement.

Dreams can be deferred. Dreams can be defeated. Dreams, of course, can be denied. I presume all of us have had some dream that, in one way or another, we found was simply impossible for us.

I look back across my life and think about all the things that I wanted to do and tried to do. I have always wanted to be a singer. I would rather stand up here and command an audience through the strange authority of music coming through one human voice than I would to be the greatest expositor of historical fact in the world. When I went to college, I learned that there was a very fine director of the Glee Club.

There were about a hundred of us. He hit a little instrument and a few notes, and he said, "Sing that." I was the first one to get thrown out on his ear. As I left, he said in tones of gentle sympathy, "The bass voice you think you have is somewhere in the range of tone between a dentist's drill and a bullfrog's croak." (Laugter) "Somebody else will do the singing of the world."

My whole life has been full of denials of dream. You know, Shakespeare is supposed to have recorded for us the greatest range of human emotions from the most ecstatic to the most depressed, and I think the trough of pessimism which he reached is in the twenty-ninth sonnet, exactly at this point of dreams denied.

When in disgrace with fortune and men's eyes,
I all alone beweep my outcast state,
And trouble deaf Heavn with my bootless cries,
And look upon myself, and curse my fate.

Why?

Wishing me like to one more rich in hope,
Featur'd like him, like him with friends possess'd,
Desiring this man's art, and that man's scope,
With what I most enjoy contented least;

Why am I not a subtle man like Mr. Gooch? Why am I not a great lawyer like Judge Pine. Why am I not a good looking man like Charlie Pledger? I can just go around the circuit, envying the people, to whom at least the right to dream was given, that in my life was denied. If you were to write my biography, which you certainly will not do, you would say of me, "He spent many bitter hours, wishing him like to one more rich in hope."

And, yet, there are motivations of life more powerful than the dreams, and that is not only true of college boys and girls, it is true of you and me. But the time has come for sacrifice of dreams on certain occasions for some other motive than the strong ambition that drives us forever to the fulfillment of our desire. Yon know those motivations as well as I do. I shall mention only two of them.

The first one is obligation. We have inherited great things and our obligation is immeasurable. In the first place is the gratitude, the obligation in sanctity that we hold as trust. I was denied my dreams, but in my own incomplete and unworthy way I was helped at every step of my life by people who wanted me to have a chance in this world.

The college which I attended was an independent college, and I could not make the Glee Club, but every dollar that had been contributed to that college had been contributed by people who wanted boys like me to have a chance. I was on a scholarship in that college, and sometime before I graduated I decided I would find out about the man who gave the scholarship that paid my tuition for my college life.

When I looked him up, I found out the man was dead before I was born. He put the scholarship there not for some boy who was of his family or for some boy he knew, but he had put the scholarship there for-

ever, and I who thought that death was final and the dead are immobile, seemed to feel hands breaking through the curtain of ultimate mystery right to me, to lift me.

Obligation! This distinguished group is under immense obligation. How strong a motive is that in our life? I heard a little story not long ago in a sermon over the radio by Dr. Sockman. It concerned a man whom I knew—not very well—but my father knew him intimately, but I didn't know the story. You Philadelphians will certainly recognize this story.

In the war of the sixties there was a young captain in the northern army. I don't know the details, but a sudden onslaught was made on him by the people in the other army, and his orderly rushed out to help him and took a tremendous sword blow aimed at the captain.

Some help came up and some of the people in the other army made a retreat, and everything was quiet, and the young captain stood unharmed, but at his feet the orderly lay dead. The young captain looked at the boy who was dead on the ground, and he said this: "Now, I must live two lives; my life and his."

The young captain entered the ministry and he presently became pastor of a very great church in Philadelphia, the Temple Baptist Church, and he began to undertake to provide programs of study for certain boys and girls who could not go off to regular schools, and out of those programs of study rose a magnificent institution that we know as Temple University. The young captain lived to a great age and died.

Dr. Sockman said in his sermon that until the day Russell Conwell died, he tried to work at least sixteen hours a day, eight hours for himself and eight hours for that boy dead these long decades on Virginia's soil. If that story is valid—and I think it's valid—what one of us could miss entirely its application? If that story is valid, perhaps you and I should live a thousand lives because of obligations that have come to us.

And beyond the dream that we carry for personal achievement must ever be this voice of obligation that commands us. I venture to mention one other motive that is greater than a dream. Of course, I am thinking in terms of these boys and girls, but I hope I am not too far removed from the inner life that all of us live.

Some years ago I was reading an essay—I generally scan these essays rather than read them—called "The Tests of an Educated Man." Well, a few of them were conventional; I mean, things I had heard many times before, but near the end of the essay the author made this statement. He said "The supreme test of an educated man is his capacity to sacrifice self-interest in behalf of an abstract idea," and the word "abstract" was in italics. That arrested my attention, and I read hurriedly on to see how he illustrated that.

He said that for example, anybody, educated or uneducated, who had a member of his family die of some preventable disease, remembering that agony, dreaming always of those remembered kisses after death, would probably become a crusader against that disease to try to save his fellow human beings. But he said that an educated man can approach the abstract ideal of health or security, can read on a chart the rising line of some dangerous disease that he might do something about at least, in his own community, has enough knowledge and imagination to see all kinds of people dying from that disease, and the ideal suddenly commands him, and he is standing up there, not out of the tortured memory of his own bitterness, but he is standing up there in behalf of an ideal that would be of immeasurable benefit to his race.

I believe this idea is worth our consideration because we are in a period, certainly more than at any time in our lives, when ideals as such must command our support, or there is not much hope left for us.

I recall in the late summer of 1939—you will get the date, please—I was in a little country church in my county, sitting by a window looking at the mountains, with my mind as completely empty as it's ever been, even more empty perhaps than at the present moment. The minister was drawling away with his announcements. Excuse me, I didn't mean to use that word. He said suddenly, "The Council of Churches has asked that every protestant church pray for peace on this Sunday morning." You will recall this was the late summer of '39.

He said, "But before I make the prayer, I am going to ask Dr. Gaines to come up and describe the world situation in three minutes." (Laughter)

Did you ever try to describe the world situation in three minutes? I was sitting about as far back as I was when Mr. Gooch summoned me this morning, and I took maybe twenty steps down the aisle,

perfectly bewildered as to how I could impress those simple, happy, country people about the gravity of the situation.

I knew that the German armies were poised on the border of Poland, but what did Poland mean to them? Why should they be excited about Poland? And as I came along, I had a little thought, and I told them that I grew up in southwest Virginia. Julius Powell and I were little boys in a little southwest Virginia town. I didn't tell them that; I'm telling you that. I said that the county next to me had a funny name, and I often wondered where on earth it got such a funny name. I thought my county had a very nice name and that the next county east of us had a very queer name.

I found out afterwards that when the war of the Revolution was on, there was in Poland a young nobleman who seemed to have everything. He had family, he had education and wealth, and I might say, for the benefit of the ladies, he was certainly one of the best looking men of his generation.

But he heard that somewhere in a remote land men were fighting for freedom, and he left his home and sailed over the waters, and joined that desperate band, no one of whom he had ever seen before, in this fight for freedom. And on one October day in 1781, just outside of the city of Savannah, while the breezes swayed gray moss above that lovely marsh, the young man still in his twenties gave up his life. Has name was Casimir Pulaski.

I told that audience that I had never been to Savannah except to pass through on a train, but I was going to Savannah someday, and I was going to stand by the grave of that boy and take my hat off. I got to Savannah last April. If any of you here are from Savannah, you will understand that Count Pulaski has no grave. They took that very young boy out where the river flows into the ocean, as a smybol of the round world, and dropped his body into the receptive waters.

I did not stand by his grave, but still I heard him say something to me; or did I hear him, or couldn't I have heard him? He said, "You will remember when you're disgusted with all the aid you give to foreign nations and all the trouble in the far corners of the world, you'll remember that it wasn't my family, or my property, or my people, for whom I gave up my life. It was the ideal of freedom to which I gladly made the sacrifice."

It wasn't that boy's dream that he should die outside the city of Savannah, but something was in the schedule of authorities that ordered him, more important than his dream. I suppose you are concerned with the ideal of justice. That is an ideal, which Judge Pine has clearly indicated, to which we have to give serious attention.

Twice in my life I have been impressed by lawyers who told me the same story. They were years apart; they were a thousand miles apart. One was in Florida, and one was in New York. I don't suppose they had ever heard of each other, but they told me essentially the same story. It was the story of a man who had committed an offense particularly odious to the people of that community. It was the story of a judge who chose a lawyer, and said, "You will defend this man."

In one case, it was the story of partners of the man saying, "This thing is so repulsive to this community that you will actually damage our firm if you take this case." And in both cases, it was a story of the lawyer saying, "The more strongly public sentiment is inflamed, the more abhorrent the circumstances and the more outrageous, the more it is my duty to see that that man has the benefit of what we call justice."

The lawyers took it and did their duty. I don't think they won their cases, but they made their sacrifice to that ideal which we dare not suffer to be damaged in our life.

Judge Medina was on our campus this April and delivered three lectures, apparently to our law students, but practically every student in the university was there every time, talking about the ideal of justice, the historic ideal, and the ideal as it should dominate personalities.

He gave our campus an uplift, I think, almost equal to what a great minister might have done. I believe one of the reasons he was convincing about that ideal was the fact that the channel of his thinking, as everybody knew, was flowing from a deep religious conviction at the very center of his life. He had no hesitation in saying that these ideals are the understandable voice of God in our vocabulary; he even said that a judge on any given day, with the fine determination of justice, should start the day with prayer because no human being is great enough in his own

strength to consider himself adequate guardian of a thing as precious as justice is.

If we are brothers to the insensible beast, if we are what someone called "dancing fools in a darkening sky," we don't need ideals. They can do us no good. If we are the children of God, we hold these truths to be self-evident, that all men are created and are endowed by the creator.

In a sermon I heard not long ago Dr. John Redhead of the First Presbyterian Church of Greensborough told one of his interesting little stories, and I have not been able to forget it. He told the story of a young lady who awakened in the middle of the night out of a terrible nightmare. She was scared, and the deep darkness frightened her even more, and then, as she said, she began to talk to God, and suddenly it was morning.

I presume she meant that in that prayer she found again confidence and quietness and dropped off to sleep. In this, our deep night, when even our dreams are all imperiled, in our deep night if we could talk to God, suddenly it will be morning!

(The audience rose and applauded.)

PRESIDENT GOOCH: If I had the power—and there are many alumni here from Washington and Lee—I would vote to change the name of Washington and Lee to Washington, Lee and Gaines.

We are on time. We have a little more business. You will note that on the program there is an item of unfinished business. So far as I am concerned, the business is all finished.

We have another item called new business. Constitutionally, we have to call for new business. Is there any new business to come before this assembly? (No reply.) Hearing none, we will pass along.

At this time we have the report of the Nominating Committee for the Officers and Executive Committee for the coming year. Joe Spray, Chairman, will you please give us your report?

MR. SPRAY: Mr. President, we report as follows: For Executive Committee: Francis Van Orman, Wilder Lucas, Leonard Muse; for Secretary, John Kluwin; Treasurer, Charlie Pledger; Vice-President, Forrest S. Smith; for President, Lester Dodd. (Applause)

PRESIDENT GOOCH: You have heard, ladies and gentlemen, the report of the Nominating Committee. As is our custom, nominations may now be received from the floor? (No reply)

Is there a motion? What is your pleasure?

MR. CHRISTOVICH: I move the nominations be closed, and these nominees be elected by acclamation.

MR. WILLIAM HOFFSTOT: I second the motion.

PRESIDENT GOOCH: As many as are in favor of the motion, make it known by saying "aye"; contrary, "no." The "ayes" have it, and it is so ordered.

Will those gentlemen please come forward? (Applause)

Ladies and Gentlemen: I give you your new officers for the coming year. (Applause) Thank you very much.

This completes my tenure of office, and may I say to you I have enjoyed every moment of it. You are the grandest bunch of guys and gals it has ever been my pleasure to be with.

Also, it is my distinct pleasure to be able to present to you the next President of this organization, and I predict that he will make one of the best—if not the best—we have ever had.

Dunc Lloyd, will you bring up the new President?

PRESIDENT GOOCH: Ladies and Gentlemen: Stanley Morris, your next President; (The audience rose and applauded.)

PRESIDENT MORRIS: Mr. President, Distinguished Guests of the Convention, Ladies and Gentlemen of the Convention: Judge Pine lived just a little dangerously when he spoke of us as rugged individualists. We here in West Virginia boast that we are congenitally and constitutionally such. In fact, our state motto advertises the fact because it says: "Mountaineers are always free." And I am tempted by that reference of his to tell a story, an actual happening in this very hotel.

The distinguished then-President of our State Bar Association was called upon at the annual dinner to introduce three of the five members of our Supreme Court of Appeals who had just held against this lawyer in a case about which he felt very strongly. So he said that he felt it was always a privilege to have the gentlemen present at our deliberations, and to have them mingle with us socially, and to have an opportunity to talk with them inform-

ally because it afforded lawyers an excellent opportunity to find out what laymen thought about the law. (Laughter)

You, knowing me well, have entrusted me with great responsibilities. I am both gratified and touched.

It has been my privilege to serve on the Executive Committee under four Presidents. In each year the work of the organization was much advanced.

To follow two such mighty men as Christovich and Gooch is challenging. Were I to attempt to put on the shoes of either, however, it would be frustrating.

Were this little crinkled state of ours ironed out, it would still perhaps be dwarfed by Texas. We West Virginians, therefore, do not try to out-Texas Texas. We do, however, humbly but pridefully point out that we live higher above the sea and therefore closer to heaven.

Permit me a few serious sentences.

Each of you members of the I. A. I. C. is a justly respected citizen of your city, your state, your country. Almost as significantly, each of you might be said to be a valued citizen of what I shall call Insurance America.

I was impressed by the fact that President Gooch devoted his keynote speech to major overall problems of the industry. So, also, a good part of yesterday's program. So, again, this morning our able and friendly monitor, Judge Pine.

We should, I feel, be just as well informed and just as concerned and alert citizens of Insurance America as we are of our other America. I firmly believe that the time has gone by, if it ever existed, when those of us who are trial lawyers are entitled, after doing a good job defending the cases entrusted to us, to live complacently in the thought that this is our whole duty to our great industry.

There are in our country today those who believe and candidly aver that, in time, government should and will underwrite major hazards of twentieth century life in America by the simple expedient of taking in the funds necessary so to do through the tax collectors' window, and taking them out by the fiats of politically appointed administrative tribunals. Still others, without consciously accepting such views, nevertheless espouse specific measures calculated to render impossible, in time, the continued successful operation of the private enterprise regulated profit insurance Industry.

It is not immodest to say that we of this Association have had a better opportunity than most Americans to know the better way. Upon us and our fellow citizens of Insurance America is cast the necessity of making private enterprise, regulated profit insurance work so well and so fairly that even the wayfaring man will want it continued..

I hope that in the ensuing year we may be able to make International Association of Insurance Counsel increasingly efficient in its never ending work of the on-the-job education of all of us in ways better to serve the Industry and, through the Industry, the American people. I also hope that it will help all of us to become not merely competent servants of the Industry but also intelligent and zealous spokesmen for it. May we exemplify to our fellow-Americans outside the Industry the best in insurance service. And may we be articulate in pointing out that with their understanding, support and cooperation, we may make it still better serve their needs.

I am not sure of what remains on the agenda. Yes, I, of course, realize we should bring forward the distinguished member of our Association who has been made your President-Elect, with such evident enthusiastic support from all of you. Les Dodd and his works among us are well known. I will appoint Charlie Pledger to escort Les Dodd, your President-Elect to the platform. (Applause)

PRESIDENT-ELECT DODD: My friends of this Association—and that's what they are—I feel very deeply and very grateful for the fine tribute that you have paid me. I have sat with Stanley Morris and with Tiny Gooch on the Executive Committee. I have the same feeling that Stanley has, that it is going to be extremely difficult to follow the men that have preceded me, and that will have preceded me, by this next year. I can't offer you any promise about what the forthcoming administration will bring, but I can promise you one thing: You could not have chosen a man who has a deeper and more sincere feeling for this Association than I.

I am sorry Mrs. Dodd isn't here this morning; she had to leave. I know that she shares with me the feeling that in this organization are the finest and most devoted friends that we have made in this world. It will be a real pleasure, a real privilege, to be able to help to serve our friends. (Applause)

PRESIDENT MORRIS: We are apparently about to close this Convention. The business has all been wound up. The Executive Committe has a very important meeting scheduled at two p.m. in the air-conditioned Greenbrier Room on the second floor, and I would like to start that promptly at two o'clock, Greenbrier County time.

I won't refer to Fort Worth time, or even profane Dallas time—I am sure it would be profane if I were to refer to Dallas time—but I will request and admonish all members of that committee to be there.

This year we had our Standing Committees appointed well in advance of this meeting, and they were requested to meet and did meet on Wednesday before this Convention assembled. We are requesting the Chairman of those committees to come to our Executive Committee meeting promptly at the opening time, and in about two to five minutes tell us what their plans are. If that is a hardship on any Committee Chairman, the Chairman will be excused. Some of them have already given me written reports. We hope you will all be there promptly.

If there is nothing further that anyone has to say for the good of the organization, if there is a proper motion, I shall declare the Convention adjourned.

MR. WILLIAM HOFFSTOT: I move to adjourn.

MR. CHRISTOVICH: I second it.

PRESIDENT MORRIS: All in favor, rise and be at ease.

(The Convention adjourned at eleven forty-five o'clock.)

Guests, Speakers and Staff in Attendance at 1954 Convention

Abramson, Mrs. Marcus (Pnina), New York, N. Y.
Adams, Mrs. Charles J. (Frances), Hartford, Conn.
Adams, Mrs. Lloyd S. (Frances), Humboldt, Tenn.
Adams, Mrs. St. Clair, Jr. (Lilla) and Daughter Babs, New Orleans, La.
Ahlers, Mrs. Paul F. (Amirrette) and Sons Paul, Jr. and Tom, Des Moines, Ia.
Alexander, Mrs. Robert C. (Carol), Dayton, Ohio.
Allen, Mrs. James P. (Evelyn), Boston, Mass.
Allen, Mary, Ft. Worth, Texas.
Anderson, Mrs. G. C. A. (Elizabeth), Baltimore, Md.
Anderson, Mrs. Henry L. (Dorothy), Fayetteville, N. C.
Anderson, Mrs. John H., Jr. (Snow), Raleigh, N. C.
Anderson, Mrs. Newton E. (Ada Mae), Los Angeles, Calif.
Anderson, Mrs. Wilson (Margaret), Charleston, W. Va.
Andrews, Mrs. John D. (Marie), Hamilton, Ohio.
Apperson, Mrs. John W. (Virginia), Memphis, Tenn.
Arendall, Mrs. Charles B., Jr. (Nan), Mobile, Ala.
Arnold, Mrs. H. Bartley (Mary Jane), Columbus, Ohio.
Arnold, Mrs. W. Harold (Lucy), Greenville, S. C.
Ascher, Mrs. Edward J. (Mabel), Asbury Park, N. J.
Ascough, Mrs. L. M. (Evelyn) and Sons Bruce and Brent, Topeka, Kan.
Atkins, Mrs. C. Clyde (Esther) and Son Clyde, Jr., Miami, Fla.

Baden, Mrs. Paul A. (Ruth), Hamilton, Ohio.
Baier, Mrs. Milton L. (Madonna) and Daughter Kathie, Buffalo, N. Y.
Baile, Mrs. Harold S. (Helen), Philadelphia, Pa.
Baird, Mrs. W. Neal (Phoebe) and Daughters Harriet and Rhett, Atlanta, Ga.
Baker, Mr. and Mrs. E. Ballard (Billy Jane), Richmond, Va.
Baker, Mrs. Harold G. (Bernice), East St. Louis, Ill.
Barry, Mrs. Hamlet J., Jr. (Gertrude), Denver, Colo.
Bateman, Mrs. Harold A. (Anita), Dallas, Texas.
Belden, Mrs. H. Reginald (Irene), Greensburg, Pa.
Bell, H. Paige, Parkersburg, W. Va.
Bell, Mrs. J. Hallman (Kate), Cleveland, Tenn.
Benn, Mrs. James S., Jr. (Margaret), Philadelphia, Pa.
Bennethum, Mrs. William H. (Anne) and Daughter Elizabeth, Wilmington, Del.
Betts, Mrs. Forrest A. (LaVelle), Los Angeles, Calif.
Betts, F. V., Seattle, Wash.
Bisselle, Mrs. Morgan F. (Lucille), New Hartford, N. Y.
Blackwell, Mr. and Mrs. Albert T. (Barbara), Brentwood, Md.
Blanchet, Mrs. G. Arthur (Lucille), New York, N.Y.
Body, Mrs. Ralph C. (Ruth) and Son Howard, Reading, Pa.
Bond, Mr. and Mrs. Marshall, Jr. (Mary Lee), Charleston, W. Va.
Bowles, Mrs. Aubrey R., Jr. (Martha-Mary), Richmond, Va.
Bradford, Mrs. A. Lee (Vivienne), Miami, Fla.
Bradley, Stuart B., Chicago, Ill.
Brewer, Mrs. Ed C. (Ione) and Granddaughter Rule, Clarksdale, Miss.
Brewer, Mrs. Norman C., Jr. (Martha), Greenwood, Miss.
Brooks, Mrs. Laurance W. (Nevada), Baton Rouge, La.
Brown, Mrs. Oscar J. (Mary), Syracuse, N. Y.
Bryant, Mrs. Donald R. (Eleanor), Dover, N. H.
Buchanan, Mrs. G. Cameron (Helen) and Sons Dean and Cameron, Detroit, Mich.
Buchanan, Mrs. Wm. D. (Elizabeth), Grand Rapids, Mich.
Buck, Mrs. Henry W. (Nina) and Daughter Judy, Kansas City, Mo.
Bunge, Mrs. George C. (Helen), Chicago, Ill.
Burke, Mrs. Patrick F. (Mary), Philadelphia, Pa.
Burns, Mrs. Lawrence, Jr. (Elinor) and Sons David and Timothy, Coshocton, Ohio.

Campbell, Bill, Philadelphia, Pa.
Canary, Mrs. Sumner (Althea), Cleveland, Ohio.
Cantey, Mrs. Emory A. (Aileen), Fort Worth, Texas.
Carey, Mrs. L. J. (Lena), Detroit, Mich.
Carlson, Mr. and Mrs. C. Obed (Ethel), New York, N. Y.
Carner, Alma, Fort Worth, Texas.
Carriger, Mrs. John S. (Helen) and Sons Fletcher and Bill, Chattanooga, Tenn.
Carroll, Mrs. Francis (Natalie), San Francisco, Calif.
Carson, Mrs. S. O. (Helen), Miami, Fla.
Carter, George L., Atlanta, Ga.
Case, Mrs. Donald L. (Ellen), Dallas, Texas.
Cassem, Mrs. Edwin (Winifred), Omaha, Neb.
Caverly, Mrs. Raymond N. (Rene), New York, N. Y.
Chilcote, Mrs. Sanford M. (Mildred) and Son Sanford, Pittsburgh, Pa.
Cholette, Mrs. Paul E. (Mona), Grand Rapids, Mich.
Christovich, Mrs. Alvin R. (Elyria), New Orleans, La.
Christovich, Mrs. Alvin R., Jr. (Betty), New Orleans, La.
Clark, Mrs. James E. (Sara), Birmingham, Ala.
Clark, Mrs. C. Kenneth (Katharine), Youngstown, Ohio.
Close, Mrs. Gordon R. (Ruth), Chicago, Ill.
Cobourn, Mrs. Frank M. (Marguerite) and Son Bill, Toledo, Ohio.
Cody, Mrs. Welborn B. (Marjorie) and Daughter Carolyn, Atlanta, Ga.
Conaway, Mrs. Howard H. (Eileen), Baltimore, Md.
Conner, Mrs. Francis D. (Katharine), East St. Louis, Ill.
Cooney, Mrs. James Evans (Helen), Des Moines, Iowa
Cooney, Mrs. William P., Jr. (Kay), Detroit, Mich.
Cooper, Thomas D., Jr., Burlington, N. C.
Cope, Mrs. Kenneth B. (Lela), Canton, Ohio.
Corcoran, Fred L., Philadelphia, Pa.
Corn, Mrs. James F. (Irene), Cleveland, Tenn.
Couch, Mr. and Mrs. James F. (Evelyn), Brentwood, Md.
Cowie, Mrs. E. A. (Nell), Hartford, Conn.
Cox, Mrs. Berkeley (Margaret), Hartford, Conn.
Cox, Mrs. Taylor H. (Mabel), Knoxville, Tenn.

Crocker, Mrs. Edward D. (Ida), Cleveland, Ohio.
Cull, Mrs. Frank X. (Madeleine) and Daughter Jackie, Cleveland, Ohio.
Curtin, Mrs. Thomas P. (Alice), New York, N. Y.

Dahinden, Blanche, Milwaukee, Wis.
Dalton, Mrs. John M. (Geraldine) and son John and daughter Judy, Kennett, Mo.
Dalzell, Mrs. Robert D. (Alice), Pittsburgh, Pa.
Deak, Mr. and Mrs. William S. (Grace), Reading, Pa.
Dempsey, Mrs. James (Mabel), White Plains, N. Y.
DesChamps, Mrs. C. A. (Marion), San Francisco, Calif.
Dimond, Mrs. Herbert F. (Helen), New York, N. Y.
Dodd, Mrs. Lester P. (Edith), Detroit, Mich.
Dodson, Mrs. T. DeWitt (Dorothy), New York, N. Y.
Doelle, Mrs. Buell (Marie), Detroit, Mich.
Duggan, Mrs. Ben O., Jr. (Marion) and daughters Marion and Barbara, Chattanooga, Tenn.
Dunn, Mrs. Evans (Josephine), Birmingham, Ala.
Dupree, Mrs. Franklin T., Jr. (Rosalyn), Raleigh, N. C.
Dykes, Mrs. J. Ralph (Frances), New York, N. Y.

Eager, Mrs. Pat H., Jr. (Ann), Jackson, Miss.
Earnest, Mrs. Robert L. (Lucy), West Palm Beach, Fla.
Eggenberger, Mrs. William J. (Elsie), Detroit, Mich.
Eggenberger, Mr. and Mrs. William D. (Earlene), Detroit, Mich.
Eidman, Mrs. Kraft W. (Kiddie), Houston, Texas.
Elam, Mr. and Mrs. John C. (Virginia), Columbus, Ohio
Elliot, Mrs. Beverley V. (Iris), Toronto, Canada.
Ely, Mrs. Wayne (Amy Nelle), St. Louis, Mo.
Enteman, Mrs. V. C. (Evelyn), Newark, N. J.
Epps, Mrs. A. C. (Rozanne), Richmond, Va.
Erickson, Mrs. Paul R. (Ruth), Detroit, Mich.
Ernst, Mr. and Mrs. Frank F. (Hermione), Cleveland, Ohio.
Eshelman, Mrs. Robert P. (Cecelia), Canton, Ohio.

Faude, Mrs. John P. (Helen), Hartford, Conn.
Faust, Mr. and Mrs. W. Karl (Esther), New York, N. Y.
Fellers, Mrs. James D. (Randy), Oklahoma City, Okla.
Ferguson, Mr. and Mrs. Daniel M. (Dorothy), Washington, D. C.
Fisk, Mrs. Burnham M. (Martha), Chicago, Ill.
Fitch, Mrs. Chester P. (Amy) and daughter Martha, Portsmouth, Ohio.
Fix, Mrs. Meyer (Elizabeth) and sons Terry and Brian, Rochester, N. Y.
Flanagan, Charles V., New York, N. Y.
Fleming, Mr. and Mrs. John W. (Mary Emma), Fort Lauderdale, Fla.
Fluty, Mrs. Holly W. (Margaret) and son Bill and daughter Molly, New York, N. Y.
Folts, Carole, Chattanooga, Tenn.
Fowler, Mrs. Cody (Maude), Tampa, Fla.
Francis, Mrs. Marshall H. (Pauline), Steubenville, Ohio.
Fraser, Mrs. Robert G. (Rose), Omaha, Neb.

Gaines, Dr. and Mrs. Francis P., Lexington, Va.
Galiher, Mrs. Richard W. (Phillis), Washington, D. C.
Gallup, Mrs. William D. (Harriet), Bradford, Pa.
Gardere, Mrs. George P. (Mary Olive), Dallas, Texas.
Geer, Mrs. Arthur B. (Marie), and son Chuck, Minneapolis, Minn.
Gibson, Mrs. W. W. (Genelle), Amarillo, Texas.
Gillen, Mrs. William A. (Lillian), Tampa, Fla.
Gillooley, Thomas J., Charleston, W. Va.
Gongwer, Mrs. J. H. (Gladys), Mansfield, Ohio.
Gooch, Mrs. J. A. (Adrienne) and daughter Gay, Fort Worth, Texas.
Gould, Mrs. Charles P. (Mary), Los Angeles, Calif.
Gouldin, Mrs. Paul C. (Virginia), Binghamton, N. Y.
Gover, Mrs. C. Hundley (Mary Mercedes), Charlotte, N. C.
Gowan, Mrs. Allan P. (Mary), Glens Falls, N. Y.
Graham, Mrs. Fred J. (Margaret), Tacoma, Wash.
Graham, Mrs. John C. (Elizabeth), Hartford, Conn.
Gray, Mrs. Harry T. (Mary), Jacksonville, Fla.
Gray, Richard E., Jr., Dallas, Texas.
Groce, Mrs. Josh H. (Julia), San Antonio, Texas.
Grubb, Mrs. Kenneth P. (Marguerite), Milwaukee, Wis.
Gurney, Mrs. J. Thomas (Blanche), Orlando, Fla.

Haas, Mrs. Robert E. (Una), Allentown, Pa.
Hansbrough, Mrs. John H. (Elneta) and son John II, Tampa, Fla.
Hassett, Mrs. Paul M. (Dorothy), Buffalo, N. Y.
Hawkins, Mrs. Kenneth B. (Emily), Chicago, Ill.
Hayes, Rufus D., Baton Rouge, La.
Haywood, Mrs. Egbert L. (Margaret), Durham, N. C.
Head, Mrs. Joseph, Jr. (Anne), Philadelphia, Pa.
Hening, Mr. and Mrs. Edmund W. (Emily Jane), Richmond, Va.
Heron, Mrs. Alexander M. (Barbara) and daughter Barbara, Washington, D. C.
Hobson, Mrs. Robert P. (Allye) and daughter Allye, Louisville, Ky.
Hoffstot, Mrs. William H., Jr. (Susan), Kansas City, Mo.
Horn, Mrs. Clinton M. (Mabel), Cleveland, Ohio.
Howell, Mrs. Charles C., Jr. (Sigrid) and son Charles III, Jacksonville, Fla.
Hubbard, Mrs. Reese (Virginia), Chicago, Ill.
Humkey, Mrs. Walter (Rosemary), Miami, Fla.
Hurt, Mrs. Charles D. (Melissa) son Charles, Jr. and daughter Alice, Atlanta, Ga.
Hutcheson, Judge Joseph C., Jr., Houston, Texas.

Jackson, Mrs. Thomas B. (Dorothy), Charlestin, W. Va.
Jacobs, Mrs. Wyatt (Elizabeth), Chicago, Ill.
James, Harry M., St. Louis, Mo.
Jamieson, Mrs. Robert G. (Thelma), Detroit, Mich.
Jamison, Mrs. Robert H. (Marjorie), Cleveland, Ohio.
Jamison, Mrs. Robert H. (Marjorie), Cleveland, Ohio.
Janata, Mr. and Mrs. Rudolph, Jr. (Mary Jean), Columbus, Ohio.
Joanis, Mrs. John W. (Marian), Stevens Point, Wis.
Johnson, Mrs. F. Carter, Jr. (Josephine) son C. B. and daughter Judy, New Orleans, La.
Jones, Mrs. William J. (Mary), Detroit, Mich.
Jordan, Mrs. Welch (Marietta), Greensboro, N. C.
Julian, Mrs. Leo S. (Dorothy), Miami, Fla.
Kammer, Mrs. Alfred C. (Wilmuth), New Orleans, La.
Kasdorf, Mrs. Clifford C. (Jane), Milwaukee, Wis.
Kelly, Mrs. Edward J. (Mary), Des Moines, Iowa.
Kelley, Mrs. William A. (Bessie), Akron, Ohio.
Kennedy, Mrs. Hayes (Mary Louise), Chicago, Ill.
Kenney, Mrs. Francis L., Jr. (Eleanore), St. Louis, Mo.

Kerrigan, Mrs. R. Emmett (Catherine), New Orleans, La.
King, Dave, Worcester, Pa.
King, J. Charles, New York, N. Y.
Kitch, Mrs. John R. (Mary), Chicago, Ill.
Kivett, Mrs. Austin W. (Mae), Milwaukee, Wis.
Kluwin, Mrs. John A. (Noreta) and sons Bob and John and daughter Mary Ann, Milwaukee, Wis.
Knepper, Mrs. William E. (Lucille) and son Dick, Columbus, Ohio.
Kramer, Mrs. Lee H. (Alice), Columbus, Ohio.
Kristeller, Mrs. Lionel P. (Helen), Newark, N. J.
Kuhn, Mrs. Edward W. (Mattie), Memphis, Tenn.
Kurer, Mrs. Judy, New York, N. Y.

LaBrum, Mrs. J. Harry (Catharine), Philadelphia, Pa.
Lacey, Mrs. Robert B. (Belva), Detroit, Mich.
Lacoste, Mrs. Roger (Marcelle) and daughter Justine, Montreal, Canada.
Lancaster, Mrs. John L., Jr. (Pat), Dallas, Texas.
Latham, James F., Burlington, N. C.
Lawson, Mrs. Robert W., Jr. (Virginia), Charleston, W. Va.
Lazonby, Ann and Shirley, Gainesville, Fla.
Lidden, Mrs. Walker (Edna), Panama City, Fla.
Lloyd, Mrs. L. Duncan (Olivia) and daughter Gingie, Chicago, Ill.
Lohman, Mrs. Ira H. (Ida May), Jefferson City, Mo.
Long, Mrs. Thomas J. (Mary) and daughters Mary Alice and Sissy, Atlanta, Ga.
Lord, Mrs. John S. (Marion), Chicago, Ill.
Lucas, Mrs. Wilder (Ruth), St. Louis, Mo.

Mangin, Mrs. William B. (Clara), Syracuse, N. Y.
Mansfield, Mrs. Walter A. (Dorothy), Detroit, Mich.
Marentay, Mr. and Mrs. Philip (Florence), Detroit, Mich.
Marland, Gov. William C., Charleston, W. Va.
Marryott, Mrs. Franklin J. (Stephanie), Boston, Mass.
Marsalek, Mrs. G. W. (Clara) and daughters Julie and Mary, St. Louis, Mo.
Marshall, Mrs. Edmund A. (Mahrea), Huntington, W. Va.
Martin, Mrs. Mark (Marion), Dallas, Texas.
Martin, Mrs. William F. (Catherine), New York, N. Y.
Masters, Mrs. Richard C. (Vera), Lansing, Mich.
Mathys, Mrs. Clifford G. (Shirley), Madison, Wis.
Mayne, Mrs. Wiley E. (Betty), Sioux City, Iowa.
Meader, Mrs. Henry C. (Virginia), Montgomery, Ala.
Meyer, Mr. and Mrs. John A. (Greta), New York, N. Y.
Miley, Mrs. Mortimer B. (Beatrice), St. Paul, Minn.
Miller, Donald H., Syracuse, N. Y.
Miller, Mrs. H. Ellsworth (Helen) and daughter Elsie, Baltimore, Md.
Miller, Mrs. Orrin (Margaret Alice), Dallas, Texas.
Miller, Mrs. Richard L. (Terry), Columbus, Ohio.
Moelmann, Mrs. John M. (Harriet), Chicago, Ill.
Montgomery, Mrs. Richard B., Jr. (Ella), New Orleans, La.
Moody, Mrs. Denman (Ted), Houston, Texas.
Moore, Mrs. Beverly C. (Irene), Greensboro, N. C.
Morris, Mrs. Larry W. (Camille), Houston, Texas.
Morris, Mrs. R. Crawford (Emma), Cleveland, Ohio.
Morris, Mrs. Stanley C. (Leota) and son Stanley C., Jr., Charleston, W. Va.
Morrison, Mrs. George M. (Louise), New York, N. Y.
Moser, Mrs. Henry S. (Ruth), Skokie, Ill.
Moss, Mrs. Sidney A. (May), Los Angeles, Calif.
Mount, Mrs. Thomas F. (Alice), Philadelphia, Pa.
Muse, Mrs. Leonard G. (Page), Roanoke, Va.

McCahan, Mrs. Elmer B., Jr. (Mildred), Baltimore, Md.
McClendon Mrs. William H., Jr. (Eleanor), New Orleans, La.
McCord, Mrs. Sidney P., Jr. (Annetta), Camden, N. J.
McDonald, Mrs. W. Percy, Jr. (Mary Jo), Memphis, Tenn.
McDonald, Mrs. W. Percy, Sr. (Lily May), Memphis, Tenn.
McGinn, Mrs. Denis (Catherine), Escanaba, Mich.
McGough, Mrs. Paul J. (Alice) and daughter Patricia, Minneapolis, Minn.
McGugin, Mrs. Dan E., Jr. (Catherine) and son George, Nashville, Tenn.
McInerney, Mrs. John M. (Katherine), Bethesda, Md.
McInerney, Mrs. Wilbert (Rosa), Washington, D. C.
McKenzie, R. S., Kansas City, Mo.
McKesson, Mrs. Theodore G. (Ruth), Phoenix, Ariz.
McNamara, Mrs. J. Paul (Mary) and daughter Lanah, Columbus, Ohio.
McNamara, Mrs. Joseph A. (Mary), Burlington, Vt.
McNeal, Mrs. Harley J. (Virginia) and daughter Sandy, Cleveland, Ohio.
McPharlin, Mrs. Eldon V. (Margaret), Los Angeles, Calif.

Nelson, Mrs. P. H. (Elizabeth), Columbia, S. C.
Nichols, Mrs. Henry W. (Bert), New York, N. Y.
Nickerson, Mrs. Palmer R. (Eleanor), Baltimore, Md.
Night, Mrs. William E. (Elizabeth), Binghamton, N. Y.
Nixon, Mrs. David S. (Kathleen), Hartford, Conn.
Noone, Mrs. Charles A. (Jessie), Chattanooga, Tenn.
Norton, Mrs. Wilbert H. (Pattie), Huntington, W. Va.

O'Brien, Mrs. Joseph F. (Sue), Brooklyn, N. Y.
O'Bryan, Mrs. William M. (Jeane), Fort Lauderdale, Fla.
O'Farrell, Mrs. William T. (Sally), Charleston, W. Va.
O'Kelley, Mrs. A. Frank (Louise), Tallahassee, Fla.
O'Mara, Mrs. Junior (Mary Jane) and son Jimmy, Jackson, Miss.
Orlando, Mrs. Samuel P. (Elsie) and daughter-in-law Mrs. Michael Orlando, Camden, N. J.

Perabo, Mrs. Fred W. (Victoria), St. Louis, Mo.
Peterson, Mrs. A. R. (Elizabeth), Chicago, Ill.
Peterson, Mrs. Herbert W. (Agnes), Birmingham, Ala.
Pfau, Mrs. William E., Jr. (Dorothy), Youngstown, Ohio.
Phelan, Mrs. Roderick G. (Eleanor), Toronto, Canada.
Phelan, Mrs. Thomas N. (Ray), Toronto, Canada.
Phillips, Mrs. Thomas M. (Edna), Houston, Texas.
Pickett, Mrs. Russell N. (Lucille), Trenton, Mo.
Pine, Judge and Mrs. David A. (Elizabeth), Washington, D. C.

Pledger, Mrs. Charles E., Jr. (Beryle), Washington, D. C.
Plunkett, Mrs. Robert E. (Anne), Detroit, Mich.
Power, Mrs. John F. (Gloria), Chicago, Ill.
Power, Mrs. John F. (Gloria), Chicago, Ill.
Powers, Mrs. Samuel J., Jr. (Marion), Miami, Fla.
Priest, Mrs. Benjamin B. (Constance), Boston, Mass.
Pringle, Mrs. Samuel W. (Margaret), Pittsburgh, Pa.
Py, Mrs. John R. (Miriam), Sandusky, Ohio.

Raley, Mrs. Donald W. (Helen), Canton, Ohio.
Raub, Mrs. Edward B., Jr. (Madeline), Indianapolis, Ind.
Ray, Mrs. John D. (Ruth) and daughter Emily, Beaver, Pa.
Reagan, Mrs. Franklin E. (Helen) and daughter Ann, St. Louis, Mo.
Reed, Mrs. Peter (Josephine) and daughter Sally, Cleveland, Ohio.
Reed, Mrs. Warren G. (Helen Clare), Boston, Mass.
Reese, Mrs. W. Ford (Beverly), New Orleans, La.
Reynolds, Mrs. Hugh E. (Marita) and daughter Jane, Indianapolis, Ind.
Robinson, Mr. and Mrs. Henry C. (Marylou), Youngstown, Ohio.
Rodman, Mrs. John C. (Elizabeth), Washington, N. C.
Rogoski, Mrs. Alexis J. (Loretta), Muskegon, Mich.
Rogoski, Mr. and Mrs. R. Bunker (Dorothy), Muskegon, Mich.
Rollins, Mrs. H. Beale (May), Baltimore, Md.
Rossi, George, Weehawken, N. J.
Rowe, Mrs. Royce G. (Marie), Chicago, Ill.
Royster, Mrs. John H. (Helen) and daughters Jean and Nancy, Peoria, Ill.
Rudolph, Mrs. Harold W. (Phyllis) New York. N. Y.
Ryan, Mrs. Charles F. (Mary), Rutland, Vt.
Ryan, Mrs. E. L., Jr. (Nell), Norfolk, Va.
Ryan, Mrs. Frank J. (Ruth), Utica, N. Y.

Sadler, Mrs. W. H., Jr. (Rose), Birmingham, Ala.
Schell, Mrs. Walter O. (Bibian), Los Angeles, Calif.
Schlotthauer, Mrs. George McD. (Betty) daughter Barbara Jane and son George, Madison, Wis.
Scholtka, Marion E., Milwaukee, Wis.
Schroeder, Mrs. Edward H. (Mildred), Skokie, Ill.
Scott, Mrs. Charles R. (Grace)., Jacksonville, Fla.
Searl, Jerome H., Syracuse, N. Y.
Sessions, Mrs. Cicero C. (Phyllis), New Orleans, La.
Shackleford, Mrs. R. W. (Iva), Tampa, Fla.
Shannon, Mrs. G. T. (Tommie), Tampa, Fla.
Shell, Mrs. Dan H. (Eleanor), Jackson, Miss.
Slickis, Mr. and Mrs. John V. (Gloria), Washington, D. C.
Smith, Mrs. Alex W. (Laura), Atlanta, Ga.
Smith, Mrs. Clater W. (Virginia), Baltimore, Md.
Smith, Mr. and Mrs. Eric P. (Christine), Rochester, N. Y.
Smith, Mrs. Forrest S. (Harriet), Jersey City, N. J.
Smith, Mrs. Forrest Stuart (Virginia), Richmond, Va.
Smith, Mrs. James T. (Dorothy), Midland, Texas.
Smith, Mrs. Julius C. (Lila), Greensboro, N. C.
Smith, Mrs. P. Eugene (Angela), Dayton, Ohio.
Smith, Mrs. William P. (Elizabeth), Chicago, Ill.
Spray, Mrs. Joseph A. (Loeta), Los Angeles, Calif.
Sprinkle, Mrs. Paul C. (Mary), Kansas City, Mo.

Stephens, Mrs. Oscar A. (Alice), Youngstown, Ohio.
Stewart, Mrs. H. Francis (Nelle), Nashville, Tenn.
Stewart, Mrs. Joseph R. (Edna), Kansas City, Mo.
Stichter, Mrs. Wayne E. (Irene), Toledo, Ohio.
Suddath, Mrs. William E., Jr. (Vernon), Jackson, Miss.
Sullivan, Mrs. Thomas W. (Janet), Rochester, N. Y.
Sweitzer, Mrs. J. Mearl (Margaret) and daughter Mary, Wausau, Wis.
Sydnor, Charles W., Richmond, Va.
Symons, Mrs. Noel S. (Frances), Buffalo, N. Y.

Thomas, Mrs. John W. (June), Columbia, S. C.
Thompson, Mrs. Grover C. (Virginia), Lexington, Ky.
Thurman, John B., Little Rock, Ark.
Tilson, Mrs. Elber H. (Gratia), Los Angeles, Calif.
Topping, Mrs. Price H. (Barbara), New York, N. Y.
Tressler, Mrs. David L. (Jessie), Chicago, Ill.
Turner, Mrs. Mark N. (Anna), Buffalo, N. Y.

Ughetta, Mrs. Casper B. (Frieda), New York, N. Y.
Ulrich, Mrs. Leslie R. (Ruth), Cleveland, Ohio.

Van Alsburg, Mrs. Donald J. (Myrtle), Detroit, Mich.
Van Eps, Francis W., Minneapolis, Minn.
Varnum, Mrs. Laurent K. (Maryellen), Grand Rapids, Mich.
Vaughan, Mrs. Vance V. (Alice), Brentwood, Md.
Vogel, Mrs. Robert C. (Esther), Chicago, Ill.

Waechter, Mrs. Arthur J., Jr. (Peggy), New Orleans, La.
Wagner, Mrs. Paul (Norma), East St. Louis, Ill.
Walsh, William G., New York, N. Y.
Ward, Charles S., Washington, D. C.
Warder, Mrs. Smith (Betty), Cleveland, Ohio.
Waters, Mrs. William W. (Elizabeth) and son Tony, Los Angeles, Calif.
Weichelt, Mrs. George M. (Marion), Tallahassee, Fla.
Weis, Mrs. Joseph F. (Mary), Pittsburgh, Pa.
Wells, Mrs. Erskine W. (Nell), Jackson, Miss.
Wells, Mrs. Troward G. (Flora), Philadelphia, Pa.
Weston, Mr. and Mrs. T. Benjamin (Mary), Baltimore, Md.
Whaley, Mrs. Thomas B. (Katharine) and daughter Trina, Columbia, S. C.
Whitaker, Mrs. R. A. (Eoline), Kinston, N. C.
White, Mrs. Harvey E. (Mabel), Norfolk, Va.
White, Mr. and Mrs. Harvey E., Jr. (Frances), Norfolk, Va.
White, Mrs. Lowell (Laura-Louise), Denver, Colo.
White, Mrs. Morris E. (Louise), Tampa, Fla.
Wicker, Mrs. John J., Jr. (Kate), Richmond, Va.
Wideman, Mrs. Frank J., Washington, D. C.
Williams, Mrs. Marvin, Jr. (Elsie), Birmingham, Ala.
Williams, Mrs. Reginald L. (Helen), Miami, Fla.
Willson, Mrs. Jack N. (Sally), Dallas, Texas.
Wilson, Mrs. Maurice J. (Nita), Baton Rouge, La.
Winthrop, Mr. and Mrs. Guy L. (Pat), Tallahassee, Fla.
Wise, Mr. and Mrs. William B. (Grace), New York, N. Y.

Yancey, Mrs. George W. (Martha), Birmingham, Ala.
Yont, Mrs. Laurence D. (Gladys), Boston, Mass.
Young, Mrs. Frank M (Helen), Birmingham, Ala.

Zelt, Mrs. Wray G. (Alberta), Washington, Pa.

Members in Attendance at 1954 Convention and Their Home Addresses

Abramson, Marcus
315 East 206th St.
New York 67, N. Y.
Adams, Charles J.
229 S. Quaker Lane
W. Hartford, Conn.
Adams, Lloyd S.
1905 E. Main St.
Humboldt, Tenn.
Adams, St. Clair, Jr.
7831 Nelson St.
New Orleans, La.
Ahlers, Paul F.
520 42nd St.
Des Moines, Ia.
Alexander, Robert C.
14 W. Dixon Ave.
Dayton, Ohio
Allen, James P.
42 Thackeray Rd.
Wellesley Hills, Mass.
Alpeter, James E.
4451 Bath Rd.
Akron, Ohio
Anderson, G. C. A.
502 Woodlawn Rd.
Baltimore, Md.
Anderson, Henry L.
612 Forest Lake Rd.
Fayetteville, N. C.
Anderson, John H., Jr.
2209 White Oak Rd.
Raleigh, N. C.
Anderson, Newton E.
6191 Barrones Dr.
Los Angeles 48, Cal.
Anderson, Wilson
1205 Edgewood Dr.
Charleston, W. Va.
Andrews, John D.
328 S. "D" St.
Hamilton, Ohio
Apperson, John W.
1786 Harbert Ave.
Memphis 4, Tenn.
Arendall, Charles B., Jr.
4 Kingsway
Mobile, Ala.
Arnold, H. Bartley
9351 Harlem Rd.
Westerville, Ohio
Arnold, W. Harold
1732 N. Main St.
Greenville, S. C.
Ascher, Edward J.
305 Bond St.
Asbury Park, N. J.
Ascough, L. M.
321 Woodbury Lane
Topeka, Kan.
Atkins, C. Clyde
2040 Country Club Prado
Coral Gables, Fla.

Baden, Paul A.
668 Emerson Ave.
Hamilton, Ohio
Baier, Milton L.
5739 Lake Shore Rd.
Hamburg, N. Y.
Baile, Harold Scott
Kershaw Rd.
Wallingford, Pa.
Baird, W. Neal
296 W. Wesley Rd., N.W.
Atlanta, Ga.
Baker, Harold G.
8 Country Club Dr.
Belleville, Ill.
Barber, Azro L.
412 Midland Ave.
Little Rock, Ark.
Barry, Hamlet J., Jr.
7070 E. 11th Ave.
Denver 20, Colo.
Barton, John L.
5616 Jones St.
Omaha, Neb.
Bateman, Harold A.
3541 Hanover St.
Dallas, Texas
Baylor, F. B.
2736 Van Dorn St.
Lincoln, Neb.
Beard, Leslie P.
327 Exchange Pl.
New Orleans, La.
Belden, H. Reginald
R. D. 6, Box 219
Greensburg, Pa.
Bell, J. Hallman
Annadale Park
Cleveland, Tenn.
Benn, James S., Jr.
819 Montgomery Ave.
Bryn Mawr, Pa.
Bennethum, William H.
Capitol Trail
Marshallton, Del.
Benton, Jesse W., Jr.
2 Garden Place
Chatham, N. J.
Betts, Forrest A.
7524 Mulholland Dr.
Los Angeles 46, Calif.
Bischoff, William G.
20 E. Oakland Ave.
Oaklyn, N. J.
Bisselle, Morgan F.
49 Arlington Terrace
Utica, N. Y.
Blanchet, G. Arthur
107 Kensington Ave.
Jersey City, N. J.
Body, Ralph C.
56 N. Reading Ave.
Boyertown, Pa.
Bowles, Aubrey R., Jr.
7 Maxwell Rd.
Richmond 26, Va.
Bradford, A. Lee
1260 Mendavia Ave.
Coral Gables, Fla.
Brewer, Ed. C.
435 W. Second St.
Clarksdale, Miss.
Brewer, Norman C., Jr.
520 Bell Ave.
Greenwood, Miss.
Bronson, Edward D.
1032 Chestnut St.
San Francisco 9, Calif.
Brooks, Laurance W.
2230 Olive St.
Baton Rouge, La.
Brown, Oscar J.
102 Oswego St.
Baldwinsville, N. Y.
Bryant, Donald R.
7 Arch St.
Dover, N. H.
Buchanan, G. Cameron
14518 Rutland Rd.
Detroit 27, Mich.
Buchanan, William D.
1820 Lake Dr.
Grand Rapids, Mich.
Buck, Henry W.
5434 Belinder Rd.
Kansas City 3, Kan.
Bunge, George C.
721 Hill Rd.
Winnetka, Ill.
Burke, Patrick F.
1301 E. Montgomery Ave.
Wynnewood, Pa.
Burns, Lawrence, Jr.
Kensington Road
Coshocton, Ohio

Campbell, William T.
349 Trevor Lane
Cynwyd, Pa.
Canary, Sumner
19486 Frazier Dr.
Rocky River 16, Ohio
Cantey, Emory A.
316 Ridgewood Road
Fort Worth, Texas
Carey, L. J.
402 Lexington Dr.
Grosse Pointe, Mich.
Carriger, John S.
100 W. Brow Oval
Lookout Mountain, Tenn.
Carroll, Francis
2421 Green St.
San Francisco, Calif.
Carson, S. O.
2269 S. W. 23rd St.
Miami 45, Fla.
Case, Donald L.
4506 Park Lane
Dallas, Texas
Cassem, Edwin
615 N. 62nd St.
Omaha 3, Neb.
Caverly, Raymond N.
163 Mayhew Dr.
S. Orange, N. J.

Chilcote, Sanford M.
1190 Hulton Rd., Oakmont,
Allegheny City, Pa.
Cholette, Paul E.
33 S. College Ave.
Grand Rapids, Mich.
Christovich, Alvin R.
4155 Vendome Place
New Orleans, La.
Christovich, Alvin R., Jr.
29 Hawk St.
New Orleans, La.
Clark, C. Kenneth
102 Woodbine Ave.
Youngstown, Ohio
Clark, James E.
3842 11th Ave., South
Birmingham, Ala.
Close, Gordon R.
127 E. 5th St.
Hinsdale, Ill.
Cobourn, Frank M.
1810 Potomac Dr.
Toledo 7, Ohio
Cody, Welborn B.
3543 Woodhaven Rd., N.W.
Atlanta, Ga.
Conaway, Howard H.
1220 W. Lake Ave.
Baltimore 10, Md.
Conner, Francis D.
13 Windsor Dr.
Belleville, Ill.
Cook, Jo D.
158 Prospect St.
Seattle 9, Wash.
Cooney, James Evans
3500 St. Johns Rd.
Des Moines, Ia.
Cooney, William P., Jr.
18034 Muirland
Detroit 21, Mich.
Cooper, Thomas D.
623 Fountain Place
Burlington, N. C.
Cope, Kenneth B.
341 21st St., N.W.
Canton, Ohio.
Corn, James F.
1690 Ocoee St.
Cleveland, Tenn.
Cowie, E. A.
Kenmore Rd.
Bloomfield, Conn.
Cox, Berkeley
682 Prospect Ave.
Hartford 5, Conn.
Cox, Taylor H.
Chilhowee Court No. 14
Knoxville, Tenn.
Craugh, Joseph P.
1800 Holland Ave.
Utica, N. Y.
Crawford, Milo H.
19640 Roslyn Rd.
Detroit, Mich.
Creede, Frank J.
524 Post St.
San Francisco, Calif.
Crocker, Edward D.
2971 Litchfield Rd.
Shaker Heights 20, Ohio.

Crowley, S. A.
4301 Kenwood Court
Ft. Worth, Texas.
Cull, Frank X.
2200 Chatfield Rd.
Cleveland Heights 6, Ohio.
Curtin, Thomas P.
776 S. Maple Ave.
Glen Rock, N. J.

Dalton, John M.
315 College
Kennett, Mo.
Dalzell, Robert D.
1419 Browning Rd.
Pittsburgh 6, Pa.
Darling, Mayo A.
89 Riverview Ave.
Waltham 54, Mass.
Davidson, Carl F.
1037 Yorkshire Ave.
Detroit, Mich.
Davis, Fred L.
17 Meadowcrest Dr.
Parkersburg, W. Va.
Dean, Goble D.
568 Hibiscus Lane
Miami 37, Fla.
Deegan, James F.
101 Westview Ave.
W. Hartford, Conn.
Dempsey, James
Crompond Rd.
Peekskill, N. Y.
DesChamps, C. A.
2449 Larkin St.
San Francisco 9, Calif.
Dimond, Herbert F.
120 W. 183 St.
New York 53, N. Y.
Dodd, Lester P.
19570 Shrewsbury Rd.
Detroit 21, Mich.
Dodson, T. DeWitt
58 E. 92nd St.
New York, N. Y.
Doelle, Buell
838 Whittier Blvd.
Grosse Pointe Park, Mich.
Donovan, James B.
102 82nd St.
Brooklyn 9, N. Y.
Duggan, Ben O., Jr.
1846 Crestwood Dr.
Chattanooga, Tenn.
Dunn, Evans
Box 157, Route 13
Birmingham, Ala.
Dupree, Franklin T., Jr.
2711 Anderson Dr.
Raleigh, N. C.
Dykes, J. Ralph
4011 168th St.
Flushing 58, N. Y.

Eager, Pat H., Jr.
818 Pinehurst Pl.
Jackson, Miss.
Earnest, Robert L.
323 Murray Rd.
West Palm Beach, Fla.

Eggenberger, William J.
11645 Pinehurst Ave.
Detroit 4, Mich.
Eidman, Kraft W.
2616 Pemberton Dr.
Houston 5, Texas
Elliot, Beverley V.
242 Cortleigh Blvd.
Toronto 12, Canada
Ely, Robert C.
473 Oak St.
Webster Groves, Mo.
Ely, Walter
1929 Lorene St.
Whittier, Calif.
Ely, Wayne
134 Gray Ave.
Webster Grove 19, Mo.
Enteman, V. C.
85 Washington St.
East Orange, N. J.
Epps, A. C.
1711 Park Ave.
Richmond 20, Va.
Erickson, Paul R.
263 Moran Rd.
Grosse Pointe 36, Mich.
Eshelman, Robert P.
1305 17th St., N.W.
Canton 3, Ohio
Evans, Walter G.
40 Park Ave.
Larchmont, N. Y.

Faude, John P.
Guilmartin Rd.
West Hartford, Conn.
Fellers, James D.
1702 Pennington Way
Oklahoma City 16, Okla.
Fields, Ernest W.
36 Washington Ave.
Chatham, N. J.
Fisk, Burnham M.
1350 Hackberry Lane
Winnetka, Ill.
Fitch, Chester P.
2650 Shawnee Rd.
Portsmouth, Ohio
Fix, Meyer
230 Cobbs Hill Dr.
Rochester 10, N. Y.
Fluty, Holly W.
74 Bainbridge Rd.
W. Hartford, Conn.
Flynn, James F.
1304 Columbus Ave.
Sandusky, Ohio
Folts, Aubrey F.
624 East Brow Rd.
Lookout Mountain, Tenn.
Ford, Byron E.
145 E. South St.
Worthington, Ohio
Fowler, Cody
84 Adalia Ave.
Tampa, Fla.
Francis, Marshall H.
633 Lawson Ave.
Steubenville, Ohio
Franklin, James A.
2015 Almeira Ave.
Fort Myers, Fla.

Fraser, Robert G.
1601 Rockbrook Rd.
Omaha, Neb.
Fredericks, Alanson R.
12 Deacon Hill Rd.
Stamford, Conn.
Fry, J. Douglas
303 Chairmain Rd.
Richmond 26, Va.

Galiher, Richard W.
5816 Highland Dr.
Kenwood, Md.
Gallup, William D .
Vista Ave. Ext.
Bradford, Pa.
Gardere, George P.
10111 Inwood Rd.
Dallas, Texas
Geer, Arthur B.
5508 Schaefer Rd.
Minneapolis 10, Minn.
Gibson, W. W.
2808 Bowie St.
Amarillo, Texas
Gillen, William A.
2629 Prospect Rd.
Tampa 9, Fla.
Gist, Howard B.
2009 Polk St.
Alexandria, La.
Gongwer, J. H.
606 Andover Rd.
W. Mansfield, Ohio
Gooch, J. A.
4400 Ridgehaven Court
Fort Worth, Texas
Gould, Charles P.
1200 Old Mill Road
San Marino, Calif.
Gouldin, Paul C.
14 Jefferson Ave.
Binghamton, N. Y.
Gover, C. Hundley
1212 Queens Rd.
Charlotte, N. C.
Gowan, Allan P.
43 Quade St.
Glens Falls, N. Y.
Gowan, W. C.
3429 Bryn Mawr
Dallas 25, Texas
Graham, Fred J.
3005 N. Proctor
Tacoma 7, Wash.
Graham, John C.
11 Colony Rd.
W. Hartford, Conn.
Gray, Harry T.
Mandarin, Fla.
Gresham, Newton
1935 Olympia Dr.
Houston 19, Texas
Griffin, Joseph W.
8116 Essex Ave.
Chicago 17, Ill.
Griffith, Sidney D.
2494 Abington Rd.
Columbus 21, Ohio
Grissom, Pinkney
4204 Stanhope St.
Dallas 5, Texas

Groce, Josh H.
302 W. Kings Highway
San Antonio, Texas
Grubb, Kenneth P.
3410 N. Hackett Ave.
Milwaukee, Wis.
Gurney, J. Thomas
1701 Spring Lake Dr.
Orlando, Fla.

Haas, Robert E.
128 N. 29th St.
Allentown, Pa.
Hamilton, John S., Jr.
20 N. Wacker Drive
Chicago 6, Ill.
Hansbrough, John H.
3218 Parkland Blvd.
Tampa, Fla.
Hanson, Rex J.
1807 Mill Creek Way
Salt Lake City, Utah
Hassett, Paul M.
383 Parker Ave.
Buffalo, N. Y.
Hawkins, Kenneth B.
1320 N. State Pkwy.
Chicago 10, Ill.
Hayes, Gerald P.
1869 N. 68th St.
Milwaukee, Wis.
Haywood, Egbert L.
28 Oak Drive
Durham, N. C.
Head, Joseph, Jr.
2228 Pine St.
Philadelphia, Pa.
Head, Walton O.
4215 Lakeside Drive
Dallas, Texas
Heneghan, George E.
7119 Maryland Ave.
University City, Mo.
Heron, Alexander M.
6 Primrose St.
Chevy Chase, Md.
Heyl, Clarence W.
801 Moss Ave.
Peoria, Ill.
Hill, A. Judson
4197 Douglas Rd.
Miami 33, Fla.
Hobson, Robert P.
Brownsboro Rd., Rt. 1
Louisville, Ky.
Hoffstot, William H., Jr.
619 W. 67th St.
Kansas City, Mo.
Horn, Cilnton M.
2940 Montgomery Rd.
Shaker Heights, Ohio
Howell, Charles C., Jr.
4815 Arapahoe Ave.
Jacksonville 5, Fla.
Hubbard, Reese
627 Lincoln Lane
Arlington Heights, Ill.
Humkey, Walter
1539 Catalonia St.
Coral Gables, Fla.
Hurt, Charles D.
28 Chatham Rd., N. W.
Atlanta, Ga.

Hutchins, Fred S.
342 Arbor Rd.
Winston-Salem, N. C.

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Jamison, Robert H.
11957 Carlton Rd.
Cleveland, Ohio
Joanis, John W.
430 Ellis St.
Stephens Point, Wis.
Johnson, F. Carter, Jr.
7637 Jeannette St.
New Orleans 18, La.
Jones, William J.
18819 Warwick Drive
Birmingham, Mich.
Jordan, Welch
1514 Kirkpatrick Pl.
Greensboro, N. C.
Julian, Leo S.
3811 Segovia
Coral Gables, Fla.

Kammer, Alfred C.
1635 Robert St.
New Orleans 15, La.
Karr, Payne
2647 Cascadia Ave.
Seattle, Wash.
Kasdorf, Clifford C.
8118 Brookside Pl.
Wauwatosa 13, Wis.
Kelly, Edward J.
5309 Harwood Drive
Des Moines, Iowa
Kelly, T. Paine
1021 Frankland Rd.
Tampa, Fla.
Kelly, William A.
622 Ardleigh Dr.
Akron 3, Ohio
Kennedy, Hayes
309 N. William St.
Joliet, Ill.
Kenney, Francis L., Jr.
9 Danfield Rd.
St. Louis 17, Mo.
Kerrigan, R. Emmett
1630 Valmont St.
New Orleans, La.
Kitch, John R.
9750 Winchester
Chicago, Ill.
Kivett, Austin W.
555 Elmspring Ave.
Wauwatosa 13, Wis.
Kluwin, John A.
5346 N. Santa Monica Blvd.
Milwaukee, Wis.
Knepper, William E.
1992 Tewksbury Rd.
Columbus 21, Ohio

Kramer, Lee H.
1561 Guilford Rd.
Columbus, Ohio
Kristeller, Lionel P.
398 Highland Ave.
Newark 4, N. J.
Kuhn, Edward W.
1096 Terry Circle
Memphis, Tenn.

LaBrum, J. Harry
1830 N. 69th St.
Philadelphia 31, Pa.
Lacey, Robert B.
15705 Rosemont Rd.
Detroit 23, Mich.
Lacoste, Roger
68 Elmwood Ave.
Outremont 8, Canada
Lancaster, John L., Jr.
4315 Overhill Dr.
Dallas, Texas
Lane, Bert H.
1712 Whaley Ave.
Pensacola, Fla.
Lawson, Robert W., Jr.
10 Grosscup Rd.
Charleston 4, W. Va.
Lazonby, J. Lance
N. W. 16th Ave.
Gainesville, Fla.
Liddon, Walker
1410 W. Beach Dr.
Panama City, Fla.
Lloyd, L. Duncan
537 Jackson Ave.
Glencoe, Ill.
Lohman, Ira H.
1107 Moreau Drive
Jefferson City, Mo.
Long, Lawrence A.
2109 E. 9th Ave.
Denver 6, Colo.
Long, Thomas J.
3040 Ridgewood Rd., N. W.
Atlanta, Ga.
Lo Presti, Alfred E.
175 Court Road
Winthrop, Mass.
Lord, John S.
217 S. Washington
Hinsdale, Ill.
Lucas, Wilder
7050 Westmoreland
St. Louis, Mo.

Mangin, William B.
212 Standish Dr.
Syracuse, N. Y.
Manier, Miller
913 E. Clayton
Nashville, Tenn.
Mansfield, Walter A.
27650 Spring Valley Dr.
Farmington, Mich.
Marryott, Franklin J.
34 White Oak Rd.
Wellesley Hills, Mass.
Marsalek, G. W.
350 N. Woodlawn
Kirkwood 22, Mo.
Marshall, Edmund A.
2107 Wilshire Blvd.
Huntington, W. Va.

Martin, John B.
9130 Greentree Rd.
Chestnut Hill
Philadelphia, Pa.
Martin, Mark
3525 Wentwood Dr.
Dallas, Texas
Martin, William F.
200 E. 66th St.
New York 21, N. Y.
Masters, Richard C.
5 Meadowlawn Ave.
E. Lansing, Mich.
Mathys, Clifford G.
1 E. Gilman
Madison, Wis.
Mawhinney, Donald M.
906 Rugby Rd.
Syracuse, N. Y.
May, John G., Jr.
1005 Grover Ave.
Richmond, Va.
Mayne, Wiley E.
721 18th St.
Sioux City, Ia.
Meader, Henry C.
1857 Galena Ave.
Montgomery 6, Ala.
Miley, Mortimer B.
2507 Beverly Rd.
St. Paul 4, Minn.
Miller, H. Ellsworth
412 Northway
Baltimore 18, Md.
Miller, Orrin
3724 Potomac
Dallas 2, Texas
Miller, Richard L.
1322 W. 7th Ave.
Columbus, Ohio
Moelmann, John M.
744 Keystone Ave.
River Forest, Ill.
Montgomery, Richard B., Jr.
265 Audubon Blvd.
New Orleans, La.
Moody, Denman
2122 Chilton Rd.
Houston 19, Texas
Moore, Beverly C.
906 Country Club Dr.
Greensboro, N. C.
Morris, Larry W.
5326 Mandell Blvd.
Houston, Texas
Morris, R. Crawford
2879 Concord Rd.
Chagrin Falls, Ohio
Morris, Stanley C.
508 Linden Rd.
Charleston, W. Va.
Morrison, George M.
Glenwood Gardens
Yonkers, N. Y.
Moser, Henry S.
Georgian Hotel
Evanston, Ill.
Moss, Sidney A.
1401 Belfast Dr.
Los Angeles 46, Calif.
Mount, Thomas F.
York Lynne Manor
Philadelphia 31, Pa.

Muse, Leonard G.
Fincastle, Va.

McCahan, Elmer B., Jr.
412 Old Orchard Rd.
Baltimore 29, Md.
McClendon, William H., Jr.
1912 Palmer Ave.
New Orleans 18, La.
McCord, Sidney P., Jr.
432 S. 6th St.
Camden, N. J.
McDonald, W. Percy, Jr.
1741 Vinton
Memphis, Tenn.
McDonald, W. Percy, Sr.
1233 Peabody Ave.
Memphis, Tenn.
McGinn, Denis
415 Ogden Ave.
Escanaba, Mich.
McGough, Paul J.
5121 Irving Ave., S.
Minneapolis 19, Minn.
McGugin, Dan E., Jr.
415 W. Tyne Dr.
Nashville, Tenn.
McInerney, John M.
5500 Johnson Ave.
Bethesda, Md.
McInerney, Wilbert
R.F.D. 3
Gaithersburg, Md.
McKelvy, W. R.
Maple Valley, Wash.
McKesson, Theodore G.
9 E. Country Club Dr.
Phoenix, Ariz.
McLaughlin, Edward F.
417 Cherry Rd.
Syracuse 4, N. Y.
McNamara, J. Paul
2130 Cheshire Rd.
Columbus, Ohio
McNamara, Joseph A.
14 Summit St.
Burlington, Vt.
McNeal, Harley J.
26828 Lake Rd.
Bay Village, Ohio
McPharlin, Eldon V.
4719 Willowcrest Ave.
N. Hollywood, Calif.
Nelson, P. H.
306 Southwood Dr.
Columbia, S. C.
Nichols, Henry W.
607 Prospect St.
Westfield, N. J.
Nickerson, Palmer R.
7308 Yorktown Dr.
Baltimore 4, Md.
Nigh, Warren
3306 Winnett Rd.
Chevy Chase, Md.
Night, William E.
11 Stone Rd.
Binghamton, N. Y.
Nixon, David S.
141 Steele Rd.
W. Hartford, Conn.

Noll, Robert M.
613 Third St.
Marietta, Ohio

Noone, Charles A.
209 Hooker Rd.
Lookout Mountain, Tenn.

Norton, Wilbert H.
2898 Washington Blvd.
Huntington, W. Va.

Norvell, J. Woodrow
6 N. Century Blvd.
Memphis, Tenn.

O'Brien, Joseph F.
35 Railroad Ave.
Patchogue, L. I., N. Y.

O'Bryan, William M.
1025 S. Rio Vista Blvd.
Fort Lauderdale, Fla.

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2001 Quarrier St.
Charleston, W. Va.

O'Kelley, A. Frank
851 Circle Dr.
Tallahasse, Fla.

O'Mara, Junior
4134 Hawthorn Dr.
Jackson, Miss.

Orlando, Samuel P.
111 Upland Way
Haddonfield, N. J.

Parcher, Fred C.
202 W. Schreyer Pl.
Columbus 14, Ohio

Perabo, Fred W.
648 Oakwood Ave.
Webster Grove, Mo.

Perry, Bennett H.
180 Church St.
Henderson, N. C.

Peterson, A. R.
227 Raleigh Rd.
Kenilworth, Ill.

Peterson, Herbert W.
2413 Shades Crest Rd.
Birmingham 9, Ala.

Pfau, William E., Jr.
1041 Academy Dr.
Youngstown, Ohio

Phelan, Roderick G.
641 Spadina Rd.
Toronto, Canada

Phelan, Thomas N.
300 Russell Hill Rd.
Toronto, Canada

Phillips, Thomas M.
3818 Wickersham
Houston, Texas

Pickett, Russell N.
115 W. 15th St.
Trenton, Mo.

Pledger, Charles E., Jr.
1715 Crestwood Dr.
Washington 11, D. C.

Plunkett, Robert E.
4200 Kensington Rd.
Detroit, Mich.

Powell, Junius L.
112 E. 74th St.
New York, N. Y.

Power, John F.
1933 Balmoral Ave.
Westchester, Ill.

Powers, Samuel J., Jr.
1042 N. E. 95th St.
Miami 38, Fla.

Priest, Benjamin B.
2 Indianhead Circle
Marblehead, Mass.

Pringle, Samuel W.
21 Spalding Circle
Pittsburgh 28, Pa.

Py, John R.
218 44th St.
Sandusky, Ohio

Raley, Donald W.
337 Bell Flower Ave., N.W.
Canton 8, Ohio

Raub, Edward B., Jr.
5361 Washington Blvd.
Indianapolis 20, Ind.

Ray, John D.
R. D. 4
Beaver Falls, Pa.

Reagan, Franklin E.
4525 Lindell Blvd.
St. Louis, Mo.

Reed, Peter
3008 Fontenay Rd.
Shaker Heights, Ohio

Reed, Warren G.
20 Manitoba Rd.
Waban, Mass.

Reese, W. Ford
5830 Pitt St.
New Orleans, La.

Rembert, William A.
5425 Drane Drive
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Reynolds, Hugh E.
6466 N. Illinois St.
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Burlington, Iowa

Rodman, John C.
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Washington, N. C.

Rogoski, Alexis J.
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Muskegan, Mich.

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Baltimore 29, Md.

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Wilmette, Ill.

Royster, John H.
Grand View Dr.
Peoria, Ill.

Rucker, Truman B.
1131 E. 21st Place
Tulsa, Okla.

Rudolph, Harold W.
Rosebrook Rd.
New Canaan, Conn.

Ryan, Charles F.
55 Engrem Ave.
Rutland, Vt.

Ryan, E. L., Jr.
1340 Graydon Ave.
Norfolk 7, Va.

Ryan, Frank J.
28 Proctor Blvd.
Utica, N. Y.

Ryan, Lewis C.
3737 E. Genesee St.
Syracuse 3, N. Y.

Sadler, W. H., Jr.
3914 Montevallo Rd.
Birmingham, Ala.

Sands, Alexander H., Jr.
607 Henri Rd.
Richmond, Va.

Schell, Walter O.
232 S. Windsor Blvd.
Los Angeles 4, Calif.

Schlotthauer, George McD.
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Cincinnati 27, Ohio

Schroeder, Edward H.
39 Overlook Dr.
Golf, Ill.

Schwartz, Wilbur C.
8416 Kingsbury
St. Louis 24, Mo.

Scott, Charles R.
739 Alhambra Dr. N.
Jacksonville, Fla.

Seale, A. G.
1545 Glasgow Ave.
Baton Rouge, La.

Sessions, Cicero C.
5938 Camp St.
New Orleans 15, La.

Shackleford, R. W.
835 South Blvd.
Tampa, Fla.

Shannon, G. T.
3007 Villa Rosa
Tampa, Fla.

Shell, Dan H.
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Jackson, Miss.

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8 Midland Gardens
Bronxville, N. Y.

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Shrewsbury, N. J.

Smith Forrest Stuart
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Richmond 26, Va.

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Dallas, Texas

Smith, James T.
1207 Cuthbert St.
Midland, Texas

Smith, Julius C.
310 Irving Pl.
Greensboro, N. C.

Smith, R. Eugene
317 Winding Way
Dayton 9, Ohio

Smith, William P.
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Sprinkle, Paul C.
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Nashville 5, Tenn.
Stewart, Joseph R.
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Stichter, Wayne E.
4129 Overlook Blvd.
Toledo 7, Ohio
Stripp, Douglas
808 Huntington Rd.
Kansas City 13, Mo.
Stubbs, Tom J.
6108 Morningside Dr.
Kansas City, Mo.
Suddath, William E., Jr.
703 Chickasaw
Jackson, Miss.
Sullivan, Thomas W.
130 Elmcroft Rd.
Rochester 9, N. Y.
Sweitzer, J. Mearl
1012 Tenth St.
Wausau, Wis.
Symons, Noel S.
39 Argyle Park
Buffalo, N. Y.

Tarlowski, Louis
Capitol Hill Apts.
Little Rock, Ark.
Taylor, A. Millard
203 Lakeview Drive
Collingswood 7, N. J.
Terwilliger, Herbert
801 Grant St.
Wausau, Wis.
Thomas, Adelbert W.
17465 Norton Ave.
Lakewood, Ohio
Thomas, John W.
1819 Seneca Ave.
Columbia, S. C.
Thompson, Grover C.
1721 S. Lime
Lexington, Ky.
Tilson, Elber H.
1859 Noel Pl.
Beverly Hills, Calif.
Topping, Price H.
32 Carleon Ave.
Larchmont, N. Y.
Townsend, Mark
921 Bergen Ave.
Jersey City, N. J.
Tressler, David L.
1111 Walnut
Western Springs, Ill.
Tucker, Warren C.
180 Genesee St.
New Hartford, N. Y.
Turner, Mark N.
248 Bedford Ave.
Buffalo 16, N. Y.

Ughetta, Casper B.
77 Walworth Ave.
Scarsdale, N. Y.
Ulrich, Leslie R.
20044 Frazier Dr.
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13955 Abington Rd.
Detroit 27, Mich.
Van Orman, Francis
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Short Hills, N. J.
Varnum, Laurent K.
645 Cambridge Blvd.
Grand Rapids, Mich.
Vaughan, Vance V.
6409 Colesville Rd.
University Park, Md.
Vogel, Robert C.
506 5th St.
Wilmette, Ill.

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1210 Webster St.
New Orleans 18, La.
Wagner, Paul
1101 Olive St.
Belleville, Ill.
Warder, Smith
14406 Drexmore Rd.
Cleveland 20, Ohio
Wassell, Thomas W.
4702 Melissa Lane
Dallas, Texas
Waters, William W.
2281 Norwic Pl.
Altadena, Calif.
Webster, Luther I.
467 Antlers Dr.
Rochester, N. Y.
Weichelt, George M.
2020 Lee Ave.
Tallahassee, Fla.
Weis, Joseph F.
3218 Perrysville Ave.
Pittsburgh 14, Pa.
Wells, Erskine W.
1630 Howard St.
Jackson, Miss.
Wells, Troward G.
220 Bayberry Ave.
Hatboro, Pa.
Westberg, Alfred J.
3802 E. John St.
Seattle 2, Wash
Weston, S. Burns
2675 Cranlyn Rd.
Shaker Heights 20, Ohio
Whaley, Thomas B.
2419 Heyward
Columbia, S. C.
Whitaker, R. A.
1207 N. Queen St.
Kinston, N. C.
White, Harvey E.
3901 Beach Ave.
Norfolk, Va.
White, J. Olin
4301 Brushill Rd.
Nashville, Tenn.
White, Lowell
124 High St.
Denver 17, Colo.
White, Morris E.
916 Golf View Ave.
Tampa, Fla.
Wicker, John J., Jr.
Prestwould Apts.
Richmond, Va.
Williams, Marvin, Jr.
2 Woodhill Rd.
Birmingham 9, Ala.
Williams, Reginald L.
4500 San Amaro Dr.
Coral Gables, Fla.
Willson, Jack N.
5049 Wateka Dr.
Dallas, Texas
Wilson, Maurice J.
2620 Terrace Ave.
Baton Rouge, La.

Yancey, George W.
15 Glen Iris Park
Birmingham 5, Ala.
Yates, Tom L.
1120 Seneca Rd.
Wilmette, Ill.
Yont, Laurence D.
Elm St.
Concord, Mass.
Young, Frank M.
3544 Altamont Rd.
Birmingham, Ala.

Zelt, Wray G.
626 E. Beau St.
Washington, Pa.